

**IMMEDIATE
ATTENTION**

SM/08/179

June 19, 2008

To: Members of the Executive Board

From: The Secretary

Subject: **Monaco—Report on the Observance of Standards and Codes—
MONEYVAL Recommendations for Anti-Money Laundering and
Combating the Financing of Terrorism**

Attached for the **information** of the Executive Board is the Report on the Observance of Standards and Codes (ROSC) for Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) for Monaco. This ROSC was prepared by the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), a FATF-style regional body, using the methodology endorsed by the FATF in February 2004 and by the Fund's Executive Board in March 2004.

In accordance with the procedures set out in SM/02/227 (7/17/02), this ROSC was reviewed by Fund staff for consistency between the detailed assessment and the ROSC. Judgments made on the substance or conclusions of the assessment belong to MONEYVAL. The ROSC has been approved by MONEYVAL according to that organization's agreed internal procedures.

The ROSC is being issued to the Executive Board in the context of the Assessment of Financial Sector Supervision and Regulation prepared by Fund staff in respect of Monaco. Monaco's authorities have consented to publication of the ROSC. This assessment will be posted on the Fund's external website after **Thursday, June 26, 2008**.

Questions may be referred to Mr. Lalonde (ext. 38691) and Mr. Vedrenne-Lacombe (ext. 39098) in LEG.

This document will shortly be posted on the extranet, a secure website for Executive Directors and member country authorities.

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Strasbourg, 23 May 2008

MONEYVAL (2007) 28 SUMM

**EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDCP)**

**COMMITTEE OF EXPERTS ON THE EVALUATION
OF ANTI-MONEY LAUNDERING MEASURES AND
THE FINANCING OF TERRORISM
(MONEYVAL)**

PRINCIPALITY OF MONACO

REPORT OF THE OBSERVANCE OF STANDARDS AND CODES¹

***ANTI- MONEY LAUNDERING
AND COMBATING THE FINANCING OF TERRORISM***

Memorandum
prepared by the Secretariat
Directorate General of Human Rights and Legal Affairs

¹ Adopted by MONEYVAL at its 25th Plenary meeting (Strasbourg, 3-6 December 2007).

ABBREVIATIONS

AMB	Association Monégasque des Banques
AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
CDD	Customer Due Diligence
CSP	Company Service Provider
DNFBP	Designated Non-Financial Businesses and Professions
EU	European Union
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
FT	Financing of Terrorism
ML	Money Laundering
MLA	Mutual Legal Assistance
NCCT	Non-Cooperative Countries and Territories
NPO	Non for Profit Organization
OECD	Organization for Economic Co-operation and Development
OS	Ordonance Souveraine
PEP	Politically Exposed Person
ROSC	Report on the Observance of Standards and Codes
SBM	Société des Bains de Mer
SFE	Société Financière et d'Encaissement
SICCFIN	Service d'Information et de Contrôle sur les Circuits Financiers
SR	Special Recommendation
STR	Suspicious Transaction Report
UNSC	United Nations Security Council

1. Background information

1. This report provides a summary of the Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) measures in place in the Principality of Monaco as at the date of the on-site visit (6-11 November 2006) or immediately thereafter. It describes and analyses those measures and provides recommendations on how certain aspects of the system could be strengthened. It also sets out Monaco's levels of compliance with the FATF 40 + 9 Recommendations.

2. The first evaluation of Monaco took place in October 2002. Since then, the Monégasque authorities have made several changes to the legislation and regulations to supplement the Principality's AML/CFT system. It amended in particular the provision of the Criminal Code criminalizing money laundering, introduced additional customer identification measures, adopted legislation regulating electronic transfers, relations with politically exposed persons, the activity of correspondent banks, and ratified a number of international conventions.

3. The Principality has a satisfactory legal framework to combat money laundering and terrorist financing, though the evaluators regretted the fact that, in general, the legal provisions are not very detailed or otherwise supplemented by detailed secondary legislation and instructions. The 2003 money laundering offence's restrictive terms hindered prosecutions, and thus the results in terms of convictions for money laundering remained disappointing: there has been one conviction for money laundering. The terrorist financing offence encompasses most of the international requirements. There are a number of gaps limiting Monaco's ability to restrain, confiscate and recover proceeds of crime and the mechanism for freezing and confiscating terrorist assets is incomplete. Overall, the Monégasque Financial Intelligence Unit (FIU) is effective and is the driving force behind the AML/CFT national efforts. Monaco has designated competent authorities to investigate and prosecute money laundering and terrorist financing offences, though the police and prosecution service do not appear to conduct proactive inquiries in these matters. Measures for domestic and international co-operation are generally comprehensive as well.

4. The volume of Suspicious Transaction Reports (STRs) has increased in recent years, in particular the ones originating from casinos, Company Service Providers (CSPs) and accountants. The STR reporting requirement is restrictively limited to reporting funds that could derive from drug trafficking or organised criminal activity or financing of terrorism.

5. Supervision of the financial institutions, in particular on-site supervision, needs to be significantly strengthened, as does the number of staff assigned for this purpose. AML/CFT supervision is weak and certain types of Designated Non-Financial Businesses and Professions (DNFBPs) are not being subjected to requirements which would result in controls. The range of administrative sanctions is not sufficiently graduated and criminal penalties do not cover all statutory AML/CFT related obligations.

6. The Principality of Monaco is a constitutional monarchy. Executive power is retained by the highest authority, the Prince. The Government is overseen by a Minister of State, who

represents the Prince and who is assisted by a Council of Government composed of five counselors – for the Interior, Finance and Economic Affairs, Public Works, Environment and Planning, Social Affairs and Health, and External Relations. Legislative power is divided between the Prince, who initiates the laws, and the unicameral parliament (the National Council) which adopts them. The judicial function is formally exercised by the Prince but is delegated to the courts and tribunals which render justice in his name. Official estimates in 2000 indicated a population of 32,020, out of which 6,089 are Monégasque, 10,229 French and 6,414 Italian. The Euro is the legal currency since January 2002, as a result of a monetary agreement signed with France acting on behalf of the European Community.

7. In recent years, the Monégasque financial system has become increasingly more concentrated as a result of a series of mergers and acquisitions starting in 2003 and the arrival of well-known names in the world of finance and wealth management. The financial sector is dominated by private banking and fund management. In late 2005, the total value of assets managed by Monégasque banking establishments was € 70 billion. By the end of 2006, credit institutions and portfolio management had a turnover of € 2.1 billion and represented 15.6 percent of total turnover of the private sector in Monaco. Most of the banks' activities were concerned with non-resident customers (Italy, Germany, Belgium, Northern Europe), who in 2006 accounted for 66 percent of customer deposits.

8. Historically, Monaco has always maintained close and special relations with France, with which it has signed several bilateral treaties and agreements covering various matters such as taxation, customs, insurance, post, telegraph and telephones. A number of French officials are seconded from the French public service in the fields of education, law enforcement, justice and tax affairs and nearly half of the judges are seconded by France for a definite term. Monaco's banking and financial system is linked to that of France.

9. French banking rules and regulations regarding prudential aspects and the regulation and organisation of credit institutions are applicable in the Principality and credit institutions are answerable to the relevant French supervisory bodies. However the Monégasque authorities retain responsibility for overseeing the application of these provisions, particularly those relating to investment services and anti-money laundering arrangements.

10. According to the Monégasque authorities, money laundering in Monaco nearly always relates to predicate offences committed abroad, evidence for which requires investigations abroad. Proceedings tend to be lengthy because investigations depend on co-operation of foreign authorities. The main types of predicate offences are difficult to identify. Various cases were linked to corruption or drug trafficking and some isolated cases were identified of trafficking in arms or vehicles, with a limited involvement of organised criminal groups, mainly from Italy. No particular trends in money laundering in the Principality were identified. It is believed that, like any major financial centre, Monaco has to deal with very sophisticated forms of money laundering that are mainly concerned with the second and third stages of the process: layering and integration.

11. No terrorist financing activities have so far been recorded in Monaco.

2. Legal system and related institutional measures

12. The money laundering (ML) offence in force at the time of the on-site visit was introduced in 1993. Article 218 of the Criminal Code defined restrictively the predicate offences and confined criminalization to certain offences committed in the context of organised crime. Since the last evaluation round, the outcomes of proceedings were one acquittal and one final money laundering conviction for drug trafficking by a third party, while 24 cases are under investigation. The criminal provision was amended on 9 November 2006 and now appears to satisfy international standards. Overall therefore the legal base to prosecute money laundering is now sound and should enable the competent authorities to deal with more money laundering cases, thus avoiding the current practice of redefining offences as handling of stolen property or misappropriation. The lack of jurisprudence, however, does not assist prosecutors and investigators on issues of proof.

13. In the current legislation, legal persons cannot be held criminally liable for the offence of laundering, as there is no general provision in the Monégasque legal system for their criminal liability. They are liable to administrative sanctions.

14. Financing of terrorism (FT) was introduced in April 2002. It is largely inspired by the 1999 UN Convention for the Suppression of the Financing of Terrorism. The FT provisions need to be supplemented so as to cover all direct and indirect forms of financial support for individual terrorists, their families and terrorist organisations. The Monégasque authorities advised that they consider that the relevant legal provisions of the Criminal Code, in conjunction with the provisions of a Sovereign Order, would authorise prosecution of the perpetrators of the direct or indirect financing of terrorist organisations or terrorists. Any legal person that has its registered office in Monaco or is constituted under Monégasque law may be held criminally liable for terrorist financing acts if committed by its corporate bodies or representatives. Monaco has not, to date, conducted any FT investigations or prosecutions.

15. There are a number of gaps in the confiscation provisions. For instance, it is not possible to confiscate property of corresponding value or property which cannot or can no longer be identified as such among the convicted offender's assets. Prior to the amendments introduced in November 2006, confiscation was confined to an exhaustive list of predicate offences set out in article 218 of the Criminal Code. In general it was noted there is a lack of financial investigations into proceeds-generating offences, and as such, the ability to restrain, confiscate and recover the proceeds of crime in most situations appeared to be rather limited. There was insufficient data on which the overall effectiveness of confiscation generally in proceeds-generating offences could be judged.

16. Monaco has enacted domestic measures providing a legal basis for freezing of terrorist funds. To a certain extent, the legal framework does provide for the imposition of international sanctions and for penalties under criminal law in the event of non compliance. However, the mechanism in Monaco does not apply to persons, groups or entities within the EU (so-called EU internals) and there is no specific machinery for examining and acting on freezing procedures initiated by other countries. Procedures for listing and de-listing and freezing and unfreezing in

appropriate cases in a timely manner should be publicized and measures relating to access to funds need clarifying to meet the requirements of UNSC Resolution 1452. The system for communicating to the financial sector measures taken under freezing arrangements and the effectiveness of certain implementing and monitoring arrangements need also to be reviewed.

17. The *Service d'Information et de Contrôle sur les Circuits Financiers* (SICCFIN), Monaco's FIU, was established in 1994 and is an administrative unit of the Department of Finance and Economic Affairs. Its primary task is to receive, on behalf of the Minister of State, and to analyse suspicious transaction reports from reporting financial institutions. It also has a supervisory role concerning the general application of Law 1162 and the implementing measures taken by financial institutions and other professionals that it covers. The FIU has a range of powers to obtain information for use in its functions and it has access to a number of government and public databases, either directly or upon request. Overall, the Monégasque FIU substantially meets the criteria of Recommendation 26 and clearly plays a key role in the AML/CFT system in Monaco. Although the FIU is institutionally attached to the Minister of State, the current internal procedures indicate that it has considerable decision-making autonomy. This practice should be formalized in law. The FIU has released annual reports since it was set up, but it needs to improve the information contained in them on money laundering techniques, methods and trends as well as in respect of statistical data.

18. Monaco has designated authorities to investigate ML and FT offences and equipped them with necessary powers. The public prosecution service has discretion to institute criminal proceedings. There are two investigating judges who can take any necessary evidence-gathering steps and perform directly or through the intermediary of the police (its Criminal Investigation Division) any investigative measures as necessary, once the decision to open an investigation has been taken. There are also two deputies in the Prosecutor General's Office who deal with ML and FT cases. At present, law enforcement activities are primarily reactive and the police and prosecution service do not appear to conduct proactive inquiries in ML or FT matters. This approach needs to be reviewed and guidelines need to be given to assist the authorities in conducting investigations. Also, the human resources of the law enforcement, public prosecution service and investigative judges' offices need to be carefully reviewed. It was also noted that the current system of secondment of judicial officers and the rotation system (terms of three years renewable once) does not necessarily assist continuity of ML investigations.

19. The Customs Convention signed on 18 May 1963 between the Principality of Monaco and France established a customs union between the two countries and provided that the French Customs Code and other French customs laws and regulations would be applicable in Monaco. As a result of this, the implementation of the system aimed at detecting physical cross-border transportation of currency and bearer negotiable instruments is carried out by the French Customs authorities. The adoption of this convention was not accompanied by the introduction of a co-operation mechanism between the two countries' competent authorities which allows for a systematic transfer of information on the outcome of declarations filed or of controls performed. Consequently, the Monégasque authorities have very little or no information and data on the cross border movements. This unique situation requires a number of measures to be

taken by the Monégasque authorities to ensure that SR IX is effectively implemented and that the system in place is effective.

3. Preventive measures – Financial institutions

20. The current preventive regime is based on law 1162 of 7 July 1993 on the participation of financial institutions in combating money laundering and terrorist financing, as amended by law 1253 of 12 July 2002. Additional acts were adopted to implement the law 1162: Sovereign Order 11160 of 24 January 1994 (amended in 2002, 2005 and 2006), Sovereign order 14466 of 22 April 2000 and Sovereign Order 631 of 10 August 2006.

21. All the professions covered by law 1162 are subject to normal due diligence requirements regarding the identification and management of customers. There are no categories of financial institutions for which the obligations under the law 1162 are less strict, on the grounds that they are less exposed to the risk of money laundering or terrorist financing.

22. According to the authorities, the Principality has never permitted financial institutions to keep anonymous accounts. This was confirmed by an obligation explicitly set out in legislation in August 2006, with a transitional period until 18 August 2007. For reasons of client confidentiality within the institution holding the account, the use of accounts under agreed names – numerical, alphabetical or alphanumeric – is possible and specific conditions govern the use of such accounts. Less than 10 percent of clients hold such accounts.

23. Generally speaking, the Monégasque legislation and regulations on Customer Due Diligence (CDD) measures are fairly satisfactory, although drafted in rather brief terms which require further interpretation as to the scope and extent of obligations. The provisions seem to be consistent with the FATF requirements on the extent to which customers must be identified and their identities checked, on the information on the purpose and planned nature of business relationships, including the regular updating of customer information. The same applies to measures on politically exposed persons. However, the CDD requirements contain a number of gaps. The authorities should take additional measure to prevent anonymous financial transactions using bearer treasury bonds (current amount: € 460,000), to include a more wide-ranging obligation to identify regular customers, to define in law or regulation the verification modalities of the identity of occasional customers making wire transfers of less than € 15,000, to make more precise the information on which the identification of trusts should be based, and to extend the existing arrangements implementing most of the requirements of Recommendation 7.

24. The legal provisions on criteria regarding reliance on third parties and business introducers were set out in August 2006, though some conditions were already spelled out in the non-binding recommendations of the Association Monégasque des Banques (AMB). The rules on the final responsibility of financial institutions for customer identification and verification of identity are fully compatible with the requirements of the Recommendation. However, there are no enforceable requirements covering the need for financial institutions to ensure that the introducer has satisfied all the due diligence requirements of Recommendation 5, and no

instructions or recommendations on how to assess equivalence of AML/CFT legislation and controls to be applied in countries where foreign client institutions are based.

25. The legislation and regulations applicable to the financial sector in Monaco provide for exceptions to professional confidentiality so as not to inhibit the implementation of the FATF Recommendations. The provisions on professional confidentiality cannot be invoked to oppose requests by SICCFIN (both in its FIU and supervisory roles) or by judicial authorities. They do not pose obstacles to the transmission of customer identification information to other financial institutions, in particular in orders for wire transfers and, as regards SICCFIN's professional secrecy obligations, the exceptions appear to be adequate for the purpose of exchanging information with counterpart authorities.

26. Record keeping requirements are comprehensive and cover all the required information for a period of five years. There is no explicit provision enabling extensions of the duration of this period upon the request of a competent authority for transactions records or records of identification data, account files and business correspondence, though judicial authorities can seize such documents. The law or regulations do not specify that transaction records should be maintained in a form that permits reconstruction of individual transactions. The legal obligations concerning transmission of information on the originators of wire transfers were not in force at the time of the visit and this affects negatively the compliance with all the essential criteria of Special Recommendation VII. There is no requirement in law or regulation on the verification modalities of the identity of occasional customers seeking the services of a financial institution to carry out a wire transfer of less than € 15,000.

27. All transactions of € 100,000 are subject to special scrutiny if they are of a complex and unusual nature and if they do not appear to have any economic justification. Given that both criteria have to be fulfilled in order to trigger this special scrutiny, the set amount appears much too high. The content of the special diligence requirements, the obligation to set forth findings in writing and keep them for five years are satisfactory. The existing provisions requiring financial institutions to give special attention to business relationships and transactions with persons from countries which do not or insufficiently apply the FATF Recommendations are not compliant with the requirements of Recommendation 21.

28. The obligation to submit suspicious activity reports is incomplete, as there is no requirement to report funds derived from all designated categories of offences. Furthermore, it does not cover all suspicious transactions, notably certain attempted transactions. The legal protection afforded to financial institutions and their senior managers and staff reporting in good faith meets the requirements.

29. The legislation provides for a general requirement that internal AML/CFT procedures, policies and controls should be developed. This has been further clarified by the AMB's recommendations. However they ought to be further detailed in law or regulation or by other enforceable means. No Monégasque financial institution has currently a branch or subsidiary abroad. The Monégasque authorities should adopt specific rules relating to foreign branches and subsidiaries covering all requirements of Recommendation 22.

30. Shell banks are not permitted to be established in Monaco. The Sovereign Order 632 adopted on 10 August 2006 introduced specific obligations for financial institutions to refuse to establish or pursue correspondent banking relationships with shell banks and to refrain from establishing relations with foreign financial institutions which permit their accounts to be used by shell banks. These provisions were too recent at the time of the evaluation visit to allow an assessment of their effectiveness.

31. Prudential supervision of Monégasque credit institutions is performed by the French Banking Commission, with the exception of portfolio management activities, which are supervised by the Supervisory Commission for Portfolio Management and Assimilated Securities Market Activities. SICCFIN is the only designated authority responsible for monitoring compliance with the AML/CFT measures. In practice, SICCFIN reviews the written procedures of each financial undertaking, performs off-site supervision through analysis of information obtained from financial institutions by means of an annual questionnaire and carries out on-site inspections. A co-operation agreement was concluded between SICCFIN and the Banking Commission regulating the exchange of information both prior and subsequent to inspections. Overall, supervision of financial institutions needs to be strengthened significantly as regards AML/CFT. Accordingly, it is recommended that the staffing of SICCFIN's supervision section be supplemented. Also the list of financial institutions subject to AML/CFT monitoring needs reviewing to include mutual fund management companies.

32. The low inspection rate casts serious doubts on the effectiveness of the monitoring measures adopted by the authorities responsible for ensuring compliance with the legal and regulatory provisions concerning AML/CFT and on the effectiveness of the implementation of the AML/CFT preventive measures provided for in the financial sector.

33. In addition to instructions on suspicious transaction reports, SICCFIN has given financial institutions via their professional association –the AMB– certain instructions on the implementation of the legal provisions. However, these are insufficiently detailed and do not cover all necessary aspects.

34. The system of sanctions includes several administrative sanctions (warning, reprimand, ban on carrying out certain transactions, withdrawal of licence) and criminal sanctions (imprisonment and/or fine). In 2004 and 2005, the Minister of State ordered two warnings and a reprimand. No sanctions were ordered in 2006. Overall, the system appeared to be incomplete insofar as there is an insufficiently graduated scale of administrative sanctions. No pecuniary administrative sanctions can be imposed. Criminal sanctions, which can be imposed on senior managers and employees of financial institutions, do not cover all the statutory AML/CFT related obligations, while administrative sanctions can be pronounced only against financial institutions and not against their senior managers.

35. Apart from the statutory provisions applying generally to the exercise of economic or commercial activities in the Principality, there are no specific provisions laying down the conditions for the exercise of money transfer services. At present, only the French Post Office is authorised to provide money transfer services in the Principality and in carrying out these

services, it uses the Western Union system. It is subject to SICCFIN's supervision and could be liable for administrative sanctions as provided for under law 1162. While this does not appear to pose any problems in practice, it is recommended, for the purpose of greater legal certainty, to ensure that the specific legal conditions for money transfer services are explicitly provided for and that a competent licensing or registration authority be designated.

4. Preventive measures – Designated Non-Financial Businesses and Professions

36. All types of Designated Non-Financial Businesses and Professions (DNFBPs) as defined in the FATF methodology are active in the Principality and are all within the scope of the AML/CFT legislation. As regards the application of AML/CFT requirements to DNFBPs, Monaco's legislation should be clarified and supplemented as far as lawyers are concerned.

37. As regards CDD and record keeping requirements for Company Service Providers (CSPs) and trustees, which qualify as financial institutions under Law 1162, the deficiencies are the same as indicated above for financial institutions. The framework governing gaming houses needs to be reviewed and supplemented, in particular with regard to the requirements of Recommendations 6, 10 and 11. The other DNFBPs (in particular real estate, dealers in precious metals and precious stones, notaries, legal and tax advisers and other accounting professions) are not subject to specific requirements in accordance with FATF Recommendations 5, 6, 8, 9 and 11, nor are they required to keep customer identification and transaction records in accordance with Recommendation 10.

38. The observations concerning enforcement measures and sanctions available against financial institutions also apply to CSPs and trustees. In the case of casinos and other DNFBPs, sanctioning is only possible for breaches of STR requirements.

39. The deficiencies identified earlier in relation to the obligation to report STRs are the same in respect of CSPs and trustees. However, there is no obligation for casinos or other DNFBPs to report to the FIU if they refuse to carry out the transaction or if the transaction is cancelled. Notaries are required by law to transmit the STRs to the Prosecutor General, however there are no arrangements to ensure that SICCFIN is notified and given access to the information contained in these reports.

40. Apart from the specific monitoring of compliance carried out by SICCFIN, casinos are also subject to the general monitoring responsibility assigned to the Gaming Inspectorate. SICCFIN has the same powers of investigation and information gathering in respect of DNFBPs as it has in respect of financial institutions. With the exception of casinos, CSPs and trustees (which qualify as financial institutions), DNFBPs generally only have the legal obligation to report suspicious transactions. They have no obligations as regards identification, due diligence, organisation and internal control. SICCFIN does not carry out on-site inspections on these other DNFBPs. Notaries, defence counsels and lawyers come under the general oversight of the Prosecutor's Office.

5. Legal Persons and Arrangements & Non – Profit Organisations

41. Monaco has a wide range of legal persons and arrangements. Legal forms of commercial companies include: Monégasque limited companies, limited partnerships with shares, commercial partnerships and general partnerships. The exercise of any commercial, craft or industrial activity or service requires prior administrative authorisation from the Government. Individual and legal persons performing commercial activities have to be registered. The authorisation and registration procedure partially reduces the potential risk posed by legal persons in the Monégasque system. However the requirements for obtaining and maintaining information on the beneficial ownership and control of legal persons need reviewing.

42. Trusts can be established in or transferred to Monaco. Additional measures are required to ensure that there is adequate, accurate and timely information on the beneficial ownership and control of trusts, which can be obtained or accessed in a timely fashion by competent authorities (particularly on persons that have constituted trusts, and their administrators and beneficiaries).

43. The adequacy of laws and regulations on non-profit associations has been reviewed, though this review does not appear to be directly related to the risks and potential abuse of these entities for the financing of terrorism. There are a number of provisions regulating the administrative authorisation procedure, transparency and supervision of associations and foundations. Despite the limited risks due to the prior verifications undertaken, the authorities are recommended, in the current context of revision of the legislation, to include additional measures and procedures, in particular regarding transparency and monitoring of the sector.

6. National and International Co-operation

44. Co-operation and coordination mechanisms have been set up between the competent authorities responsible for implementation of AML/CFT arrangements which appear to work and ensure that information is being circulated. The effectiveness of the co-operation among supervisory authorities could be improved.

45. Monaco has ratified and implemented, with some shortcomings as noted previously, the Vienna, Palermo and FT Conventions and the provisions of S/RES/1267(1999) and S/RES/1373(2001).

46. The Principality of Monaco had not acceded to any specific multilateral treaty on mutual assistance in criminal matters². It has signed three bilateral Mutual Legal Assistance (MLA) agreements and several extradition agreements which contain clauses on judicial assistance in connection with extradition requests submitted. Mutual assistance must be made through diplomatic channels.

47. Since 2000 Monaco has been listed by the OECD's Committee on Fiscal Affairs as an un-cooperative tax haven, as it has not given any undertakings regarding the transparency or the effective exchange of information for taxation purposes. It was nonetheless noted that Monaco

² Monaco has signed and ratified the European Convention on Mutual Assistance in Criminal Matters in March 2007, and the convention entered into force on 17/6/2007.

does provide mutual assistance in matters regarding organised tax fraud and related crime subject to compliance with the specialty rule.

48. The dual criminality requirement which it applies is compatible with the requirements of Recommendation 37. At the time of the evaluation, Monaco was unable to take action on all requests for assistance in laundering activities because of the restrictive ambit of the domestic ML offence. There are concerns about the ability of the authorities to handle speedily any foreign requests for freezing of funds or to carry out certain investigative measures, which are still not covered by the Criminal Procedure Code.

49. It is regretted that the Principality has neither signed nor ratified the European Convention on Extradition. It has, however, concluded 15 extradition treaties with various countries. Monaco's legal arrangements governing extradition allow for the extradition of those responsible for ML and FT offences. Some reservations still remain in particular regarding the extradition of those responsible for certain acts of FT.

50. As regards other forms of co-operation, the scope of exchange of information is limited to transactions that appear to be linked to drug trafficking, or organised criminal activities, terrorism, terrorist acts or terrorist organizations or financing of the latter. The law does not enable SICCFIN to contact counterparts directly, though in practice this is being done. The exchange of information with foreign supervisory authorities is furthermore limited to internal control procedures of financial institutions.

7. Resources and statistics

51. Competent authorities, in particular the FIU, the public prosecution service, the investigative judges' offices and the police should review their staff numbers so as to ensure that they are adequately resourced to effectively perform their functions. In particular, the limited number of staff that SICCFIN can allocate for supervision seriously impacts on its capacity to carry out fully this function and should be addressed as a matter of urgency.

52. In general, the Monégasque authorities maintain a wide range of statistics. However these should be reviewed and further detailed to demonstrate the effectiveness of law enforcement and prosecutorial actions and of the effectiveness of the seizure and confiscation regime. The FIU keeps statistics on the number of STRs analysed and disseminated. However they do not contain information on the underlying predicate offences. It would assist if this information is routinely kept. With regard to MLA requests, there were no statistics provided on the breakdown of the offences concerned in each case (i.e. ML, predicate offences or FT). More detailed statistics should be kept which show how rapidly ML and FT MLA requests are being dealt with and which show the nature of the request, whether it was granted or refused in whole and in part. The statistics which were provided confirm that there was no extradition on grounds of laundering.

Table 1: Ratings of Compliance with FATF Recommendations³

Forty Recommendations	Ratings	Summary of factors underlying ratings
Legal systems		
1. ML offence	PC	<ul style="list-style-type: none"> The excessively restrictive definition of predicate offences and the restriction to certain offences committed in the context of a criminal organisation hindered prosecution for money laundering. The financing of terrorism within the overall meaning of the recommendation and the interpretative is not covered in the list of designated categories of offences. The recent nature of the provision adopted on 9 November 2006 means that its effectiveness cannot be assessed.
2. ML offence – mental element and corporate liability	PC	<ul style="list-style-type: none"> In the absence of a specific legislative provision and of case law on the matter, the evaluators remain sceptical about the ability of the courts to infer the intentional element of the offence of money laundering from objective factual circumstances. Legal persons cannot be held criminally liable for the offence of laundering because there is no provision in the Monégasque legal system for their criminal liability.
3. Confiscation and provisional measures	PC	<ul style="list-style-type: none"> It is not possible to confiscate property of corresponding value which cannot or can no longer be identified as such among the convicted offender's assets. Monégasque legislation does not allow for confiscation on its own in proceedings separate from the prosecution of an offender, thus the autonomous seizure of funds which could be the proceeds of criminal offences.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	C	
5. Customer due diligence	PC	<ul style="list-style-type: none"> The regulations banning anonymous accounts and the rules on accounts using agreed names were not fully binding at the date of the on-site visit. The Monégasque authorities should introduce additional measures to prevent anonymous financial transactions using bearer treasury and other short term bonds (though their use is very limited). The obligation to identify regular customers should not be limited to those with open accounts but extend to those with whom business relationships are entered into. The verification modalities of the identity of occasional customers wishing to make wire transfers valued at under € 15,000 are not clearly defined in law or regulation.

³ The rating of compliance vis-à-vis the FATF Recommendations should be made according to the four levels of compliance mentioned in the 2004 Methodology:

Compliant (C):

The Recommendation is fully observed with respect to all essential criteria.

Largely Compliant (LC):

There are only minor shortcomings, with a large majority of the essential criteria being fully met.

Partially Compliant (PC):

The country has taken some substantive action and complies with some of the essential criteria.

Non-Compliant (NC):

There are major shortcomings, with a large majority of the essential criteria not being met.

Not Applicable (NA):

A requirement or part of a requirement does not apply, due to the structural, legal or institutional features of a country e.g. a particular type of financial institution does not exist in that country.

		<ul style="list-style-type: none"> • The information on which the identification of trusts and must be based is not sufficiently precise. • Persons who have no share of the capital but still provide the leadership of or "brains behind" a company and persons who have established trusts are not clearly identified as beneficial owners. • The regulations requiring financial establishments to establish their own rules on how to deal with high risk situations fall well short of what is adequate. • When there are suspicions of money laundering or terrorist financing or when there is a material change in the way that a customer's account is operated, it is not sufficient simply to require a fresh identification of the customer. • The minimum figure of € 100,000 beyond which customer transactions should be subject to extra vigilance seems much too high in the case of financial institutions that have not established suitable arrangements to identify high risk transactions on the basis of other criteria. • Although the authorities maintain that financial institutions are not allowed, other than in situations specified in law and OS, to exercise simplified diligence in situations that they themselves have identified as low risk, the wording of the regulations does not unambiguously exclude this possibility. • The provisions authorising a lower level of diligence for customers that are public companies do not require them to be subject to the laws of countries that comply with and apply the FATF recommendations. • The provisions authorising a lower level of diligence for customers that are financial institutions subject to the legislation or public companies do not stipulate exceptions when there are suspicions of money laundering or terrorist financing. • SICCFIN has not published instructions on the risk-based approach specified in article 5, second, fourth and fifth sub-paragraphs of the OS. • There is a general problem of the effectiveness of the relevant rules and standards because of SICCFIN's lack of supervisory resources.
6. Politically exposed persons	LC	<ul style="list-style-type: none"> • The binding provisions are too recent to be able to assess fully their effectiveness. • There is a general problem of the effectiveness of the relevant rules and standards because of SICCFIN's lack of supervisory resources.
7. Correspondent banking	PC	<ul style="list-style-type: none"> • The obligation to collect sufficient information does not explicitly cover checks on whether the institution concerned has been investigated or the subject of action by the AML/CFT supervisory authority. • Financial establishments are only required by default to assess client institutions' AML/CFT monitoring procedures, with no reference to any checks on their suitability or efficacy. • The competent authorities have not issued any instructions or recommendations on how to assess the equivalence of AML/CFT legislation and controls to be applied in countries where foreign client institutions are based. • There is no obligation to obtain approval from senior management before establishing new correspondent banking relationships. • There is no requirement in Monégasque legislation for the

		respective AML/CFT responsibilities of the Monégasque and client institutions to be set down in writing.
8. New technologies & non face-to-face business	LC	<ul style="list-style-type: none"> Monégasque legislation and regulations do not require financial institutions to establish policies or measures to deal with the misuse of new technologies for money laundering or terrorist financing purposes (though the French regulatory framework which is also applicable appears to limit the risks).
9. Third parties and introducers	PC	<ul style="list-style-type: none"> There is no enforceable legal rule requiring Monégasque financial institutions to ensure that third party business generators have satisfied all the due diligence requirements in FATF recommendation 5, though ultimate responsibility for identification lies with the financial institutions. The competent authorities have not issued any instructions or recommendations on how to assess the equivalence of AML/CFT legislation and controls to be applied in countries where foreign client institutions are based.
10. Record keeping	LC	<ul style="list-style-type: none"> The law does not explicitly provide for the required period for the retention of documents relating to transactions to be extended if requested by the competent authority in specific cases, if it is necessary to carry out their responsibilities. The same applies to the retention in writing of identification information, accounting documentation and commercial correspondence. However, other legal provisions regarding regulating limitation periods require identification documents and documents relating to transactions to be kept for periods ranging from 10 to 30 years. The law or regulation do not specify that data and documents must be maintained in a form that makes it possible to reconstruct individual transactions and provide evidence in the case of prosecution.
11. Unusual transactions	PC	<ul style="list-style-type: none"> The size of transactions and their complexity or abnormality should be alternative rather than cumulative criteria for determining whether financial institutions should be required to show increased diligence. Since these criteria are cumulative in the Monégasque system and the figure of € 100,000, which is the minimum amount beyond which increased diligence is required, applies equally to all types of transactions or customers, this amount seems much too high. There is a general problem of the effectiveness of the relevant rules and standards because of SICCFIN's lack of supervisory resources.
12. DNFBPs – R.5, 6, 8-11	NC	<ul style="list-style-type: none"> Lawyers would seem to be immune from any form of AML/CFT requirement. With regard to CSPs and trustees, which qualify as financial undertakings under Monégasque law, the comments and compliance ratings set out in part 3 concerning FATF Recommendations 5, 6 and 8 to 11 are also applicable. Again in the case of CSPs and trustees, the comments and compliance ratings set out in part 3 concerning FATF Recommendation 17 also apply. Casinos are not required to ensure that customers are acting on their own behalf or on behalf of effective beneficiaries. No specific measure is imposed on casinos requiring them to determine which of their customers are politically exposed persons and to submit their relationships with such customers to enhanced

		<p>monitoring.</p> <ul style="list-style-type: none"> • Other Designated Non-Financial Businesses and Professions (in particular estate agents, dealers in precious metals and precious stones, notaries, legal and tax advisers and other independent accounting professions) currently have no duties of due diligence with regard to customers and their transactions in accordance with FATF Recommendations 5, 6, 8, 9 and 11. • Nor are they required to keep customer identification and transaction records in accordance with FATF Recommendation 10. • The administrative sanctions that may be incurred by CSPs and trustees show the weaknesses already discussed in section 3.10 of this report. • In the case of casinos and other businesses and professions covered by Article 2 of the law only clear breaches of suspicious transaction reporting requirements are liable to be sanctioned. • The penalty can be applied solely to the natural person or persons who can be held liable for the criminal offence, not to the gaming house or business itself. • In the case of casinos, even serious, established breaches of requirements in matters of customer due diligence or organisation and implementation of preventive procedures fail to constitute grounds for imposing an enforcement measure or sanction, except where it can be proved that the breaches resulted in a failure to report suspicious transactions, liable to criminal penalties. • This lack of enforcement measures and applicable sanctions by nature has a negative impact on the assessment of the effectiveness of the due diligence and organisational requirements applicable to casinos.
13. Suspicious transaction reporting	PC	<ul style="list-style-type: none"> • The designated categories of offences identified by FATF should apply in all circumstances, whether or not they result from an organised criminal activity. • The reporting requirement in Monégasque legislation does not cover all suspicious transactions, such as attempted operations that have failed for reasons other than that the financial institution has refused to carry out the transaction.
14. Protection & no tipping-off	C	
15. Internal controls, compliance & audit	PC	<p><i>Except for banks:</i></p> <ul style="list-style-type: none"> • The officer or employee in charge of suspicious transaction reporting does not have overall responsibility by law for the organisation and internal control of AML/CFT measures within the financial undertaking. • The status and powers which he must be given within the financial institution to enable him to fulfil his duties are not based on provisions which would guarantee this. • The law and the regulations fail to make express provision for this officer to have access to all necessary information. • It is not possible to consider that other financial undertakings are required to maintain an independent internal control function, endowed with sufficient resources, since there is no express legal or regulatory provision to that effect, entailing sanctions for non-compliance. • Apart from the criteria for issuing work permits, only the AMB's recommendations, which are non-binding, refer to the need to verify the honesty of candidates for employment before

		they are hired.
16. DNFBPs – R.13-15 & 21	NC	<p>Regarding all DNFBPs:</p> <ul style="list-style-type: none"> • The reporting requirement does not cover all the underlying offences referred to in FATF Recommendation 1. • Only the individual to whom responsibility for the contravention set out in Article 32 of the law can be attributed, can be given a penalty, and not the undertaking or business in the framework of which the suspicious transaction has been carried out. • The undertaking or business in the framework of which the suspicious transaction has been carried out should be liable for an administrative penalty for the failure to report the transaction, even though the statutory conditions for imposing the criminal sanction provided for in Article 32 of the law have not been satisfied, or where the facts are not sufficiently serious to warrant such a criminal sanction. • No ministerial decree has been issued in application of Article 3.4 and 3.5 of Law 1162 of 7 July 1993, to lay down special vigilance measures regarding business relationships or transactions with counterparties having links with countries which fail to apply or insufficiently apply the FATF recommendations. • The Monaco authorities have instead opted for an “instruction” which has no legal basis and, therefore, no binding force and no penalties in the event of non-compliance. <p>Regarding CSPs and trustees:</p> <ul style="list-style-type: none"> • The reporting requirement laid down in Monaco legislation does not cover attempted transactions which have not taken place for any reason other than a refusal by the financial undertaking to carry out the transaction, including cancellation of the transaction by the requester himself or herself. <p>Regarding CSPs, trustees and casinos (cf. section 3.8.3):</p> <ul style="list-style-type: none"> • The person responsible for or staff member authorised to file a suspicious transaction report has no overall responsibility for the organisation and internal control of AML/CFT arrangements within his or her financial undertaking. • There are no legal or regulatory provisions explicitly providing for access by the person responsible or designated staff member to all the necessary information. • The casinos cannot be regarded as being required to maintain an independent and appropriately resourced internal control function given that such is not the result of an explicit statutory or regulatory provision, infringement of which is punishable. • These undertakings cannot be regarded as being required to establish ongoing employee training, as there are no binding provisions in this area to which penalties are attached in the event of non-compliance. • Apart from the criteria for issuing work permits, there is no binding provision requiring these undertakings to put in place screening procedures to ensure high standards when hiring employees. <p>Regarding casinos and other DNFBPs:</p> <ul style="list-style-type: none"> • These businesses and professions are subject to no obligation to report a suspicious transaction, neither when the professional in question has refused to carry out the transaction nor in the case of a transaction which does not go ahead for whatever reason, including cancellation by the individual concerned.

		<p>Regarding other DNFBPs:</p> <ul style="list-style-type: none"> • These are not obliged to put in place any organisational or internal control measures. • SICCFIN is not kept informed about suspicious transaction reports filed by notaries with the Prosecutor General, nor of the subject matter of such reports.
17. Sanctions	PC	<ul style="list-style-type: none"> • The range of administrative sanctions is not sufficiently graduated to be applied in proportion to the seriousness of the violation identified, given the fact that it is not possible to impose administrative fines. • The criminal penalties provided for in Articles 32 and 33 of the law, which can be imposed on senior managers and employees of financial undertakings, do not cover all cases of failure to comply with the statutory AML/CFT obligations.
18. Shell banks	LC	<ul style="list-style-type: none"> • The binding requirements relating to criteria R. 18.2 and 18.3 are too recent to allow an assessment of their effectiveness.
19. Other forms of reporting	C	
20. Other NFBPs & secure transaction techniques	C	
21. Special attention for higher risk countries	NC	<ul style="list-style-type: none"> • No ministerial order has been issued to implement article 3 paragraphs 4 and 5 of Law 1162 of 7 July 1993, to require increased diligence in connection with business relationships or transactions with counterpart institutions with links to countries that do not properly apply the FATF recommendations; the legal provision concerned cannot therefore be deemed effective. • The Monégasque authorities have instead opted for an "interpretative note", which has no legal basis and is therefore not binding and carries no sanctions; as a result, financial institutions cannot be considered to be required to comply with the recommendations addressed to them. • The measures specified in Monégasque legislation and regulations are mainly concerned with countermeasures against NCCTs identified as such by FATF and not the full range of countries that the Monégasque authorities consider not to be applying FATF recommendations fully or satisfactorily.
22. Foreign branches & subsidiaries	NC	<ul style="list-style-type: none"> • Article 13 of Law 1162 of 7 July 1993 does not extend all of Monaco's legislation and regulations in AML/CFT matters to subsidiaries and branches located abroad, since it merely concerns the requirement to exercise enhanced scrutiny over complex, unusual transactions involving significant amounts for which there does not seem to be an economic justification. • No specific provision requires financial undertakings to pay special attention to compliance with the relevant principles in the case of subsidiaries and branches located in countries which do not or which insufficiently apply the FATF recommendations. • Where the minimum standards applicable in Monaco differ from those of the country where a branch or subsidiary is located, no legal or regulatory provision requires the application of the most stringent legislation. • Monaco's law requires financial undertakings to inform SICCFIN if the local legislation or regulations applicable to their subsidiaries or branches constitute a hindrance to the application of the special scrutiny provided for in Article 13 of Law 1162 of 7 July 1993, but not the preventive measures in force in Monaco as

		a whole.
23. Regulation, supervision and monitoring	PC	<ul style="list-style-type: none"> • Mutual fund management companies should, as financial undertakings, be subject to the obligations laid down in Law 1162 of 7 July 1993. • Insurance intermediaries in Monaco (brokers and agents) are not explicitly subject to the statutory AML/CFT obligations, but rather as a result of the broad interpretation of the inclusion of insurance companies. • The low on-site inspection rate casts serious doubt on the effectiveness of the monitoring measures adopted by the authorities responsible for ensuring compliance with the legal and regulatory provisions concerning AML/CFT, and also the effectiveness of all the AML/CFT arrangements set up in the financial sector in the Principality of Monaco.
24. DNFBBs - regulation, supervision and monitoring	PC	<ul style="list-style-type: none"> • Regarding CSPs, the frequency of on-site inspections carried out by SICCFIN is clearly inadequate in order to ensure that their obligations are effectively fulfilled. • Although trustees are classified in Monaco as financial undertakings, SICCFIN does not in practice carry out any offsite supervision nor on-site inspections on compliance with their obligations except when these trustees are credit institutions or CSPs (it should be noted however that only one trustee or representative of a trustee – a foreign legal entity – is not a credit institution or CSP).
25. Guidelines & Feedback	PC	<ul style="list-style-type: none"> • SICCFIN's instructions and recommendations to financial institutions do not systematically assist them on all the main issues that the application of preventive measures is likely to raise in practice. • SICCFIN's reports contain little or no information on the methods and techniques of money laundering or on trends in the problem. • It is thus important that the dissemination of the results of the liaison committee's activities is done through a mechanism which guarantees organisations and individuals concerned by this information ready and rapid access to it. • Given the professional confidentiality of SICCFIN staff, it is necessary that the Monégasque authorities examine whether the adoption of specific legal provisions would enable to provide a more comprehensive and systematic specific feedback to financial institutions on action taken on suspicious transactions that they have reported. • In the absence of vigilance requirements and on the organization of internal control for DNFBBs (other than those which are financial institutions) no guidelines have been provided to the professionals referred to in article 2 of law 1162. • The instructions and recommendations provided by SICCFIN to financial undertakings are not sufficiently systematic and in particular do not include any section on typologies.
Institutional and other measures		
26. The FIU	LC	<ul style="list-style-type: none"> • No express requirement to provide guidance regarding the manner of reporting - reporting forms not specified - for all reporting parties. • No (direct or indirect) access to some administrative information. • Potential threat to its independence (organic link with the

		<p>Ministry of State), diminished in practice.</p> <ul style="list-style-type: none"> • Reports do not include a section on typologies and trends.
27. Law enforcement authorities	PC	<ul style="list-style-type: none"> • The law enforcement system is primarily response based, and the police and prosecution service do not seem to conduct proactive inquiries in money laundering or terrorist financing matters. • The amendment of the Criminal Code has not yet been tested, and its effectiveness therefore cannot be assessed. • There is no real strategic analysis aimed at identifying the sectors involving the greatest risk of money laundering and the risks to which Monaco's financial system is exposed.
28. Powers of competent authorities	C	
29. Supervisors	LC	<ul style="list-style-type: none"> • The range of administrative sanctions is not sufficiently graduated to be applied in proportion to the seriousness of the violation identified (cf. R17).
30. Resources, integrity and training	PC	<ul style="list-style-type: none"> • Because of the paucity of resources available for SICCFIN in terms of staff assigned to supervision, this function cannot be considered as effective. • The human resources of the public prosecution service, the investigative judges' offices and police should possibly be reviewed. • Concerns about the investigating and prosecuting authorities' degree of independence and autonomy.
31. National co-operation	LC	<ul style="list-style-type: none"> • As regards the co-ordination measures at national level, the French customs service is not involved in even though certain AML/CFT tasks are under their responsibility under the Customs Convention (SR. IX). • The effectiveness of certain co-operation mechanisms, particularly among supervisory authorities, could be improved.
32. Statistics	LC	<ul style="list-style-type: none"> • Lack of annual comprehensive statistics on investigations and prosecution for money laundering. • Lack of statistics enabling the evaluators to assess the effectiveness of the Monégasque confiscation regime. • No statistics on other disclosures concerning (i) cash transactions exceeding a prescribed threshold; (ii) physical cross-border transportation of currency or bearer negotiable instruments or (iii) international wire transfers. <p>Statistics kept by the FIU:</p> <ul style="list-style-type: none"> • No information is provided on underlying predicate offences or closed cases <p>Law enforcement, prosecution and other competent authorities:</p> <ul style="list-style-type: none"> • More detailed statistics are needed to demonstrate the effectiveness of the law enforcement and prosecuting authorities' action. <p>SR. IX:</p> <ul style="list-style-type: none"> • Complete lack of statistics. <p>Mutual Legal Assistance:</p> <ul style="list-style-type: none"> • The statistics do not enable to know if the MLA requests correspond to the number of requests received formally by the Director of Judicial services. • The statistics do not enable to know the number of MLA requests made by the Monégasque authorities relating to ML,

		<p>other predicate offences and FT.</p> <ul style="list-style-type: none"> The statistics related to the requests received do not enable to know the nature of the request, whether it was granted or refused and the time required to respond. <p>Extradition:</p> <ul style="list-style-type: none"> Existing statistics confirm that there was no extradition in relation to a money laundering offence. <p>Other forms of international co-operation:</p> <ul style="list-style-type: none"> The statistics which were provided make it possible to quantify only partially the number of incoming and outgoing spontaneous transmissions of information. No statistics on international police co-operation.
33. Legal persons – beneficial owners	LC	<ul style="list-style-type: none"> Assessment in the light of previous comments on the need to clarify existing arrangements for identifying the beneficial owners of legal persons and trusts and the control of legal persons.
34. Legal arrangements – beneficial owners	PC	<ul style="list-style-type: none"> Reservations about procedures for recording information on the ownership and control of trusts, the time taken to update information and the authorities' access to adequate, accurate and timely information on the beneficial ownership and control of trusts.
International Co-operation		
35. Conventions	PC	<ul style="list-style-type: none"> Reservations about certain aspects of the implementation of the Vienna and Palermo Conventions.
36. Mutual legal assistance (MLA)	PC	<ul style="list-style-type: none"> At the time of the evaluation, Monaco was unable to take action on all the requests for assistance in money laundering inquiries. Weakness of bilateral and multilateral international co-operation. Failure to formalise the possibility of direct relations between judicial authorities, particularly for the transmission of requests for assistance.
37. Dual criminality	LC	<ul style="list-style-type: none"> Because of the restrictive wording of article 218 of the Criminal Code, as introduced by Law 1161
38. MLA on confiscation and freezing	PC	<ul style="list-style-type: none"> Failure to formalise the possibility of direct relations between judicial authorities, particularly to secure the freezing of funds. The pre-condition of prepaid expense by the requesting state may delay the freezing of funds. Absence of a special fund to receive confiscated assets that are not restored or shared.
39. Extradition	LC	<ul style="list-style-type: none"> Because of the restrictive wording of article 218 of the Criminal Code, as introduced by Law 1161, and lack of information on the time taken for processing.
40. Other forms of co-operation	PC	<ul style="list-style-type: none"> Article 31 of Law 1162 is too restrictive as regards the scope of exchanges. Article 31 does not provide explicitly for the possibility of spontaneous transmission of information for the FIU, nor in the case of police investigations. Provisions on co-operation between SICCFIN and foreign supervisory authorities limited to internal procedures

Nine Special Recommendations	Rating	Summary of factors underlying rating
SR.I Implement UN instruments	LC	<ul style="list-style-type: none"> The implementation measures for Resolutions 1267 and 1373 need reviewing (see SR III).
SR.II Criminalise terrorist financing	LC	<ul style="list-style-type: none"> Reservations concerning essential criteria II.1.(a) (ii) and (iii) and (c) and II.4 (criterion 2.2)
SR.III Freeze and confiscate terrorist assets	PC	<ul style="list-style-type: none"> The legal arrangements for implementing international sanctions are currently incomplete and call for specific and detailed regulations to meet the requirements of criteria III.1, III.3 and III.6-9. The effectiveness of certain implementing and monitoring arrangements also needs to be reviewed.
SR.IV Suspicious transaction reporting	LC	<ul style="list-style-type: none"> The reporting requirement in Monégasque law does not extend to attempted operations that have failed for reasons other than that the financial institution has refused to carry out the transaction, in particular because customers themselves decide not to continue with a transaction after first having requested it.
SR.V International co-operation	PC	<ul style="list-style-type: none"> Reservation about the possibility of granting mutual assistance for the financing of a terrorist organisation and a terrorist. Reservation about the possibility of extradition for all offences related to terrorist financing. The exchange of information between supervisory authorities is legally limited to internal control procedures of financial institutions. The information provided on international co-operation between supervisory authorities does not enable to judge its effectiveness.
SR.VI. AML requirements for money/value transfer services	LC	<ul style="list-style-type: none"> Apart from the statutory provisions applying generally to the exercise of economic or commercial activities in the Principality, there are no specific provisions in Monaco legislation laying down the conditions for the exercise of money transfer services. The observations made above with regard to Recommendation 17, also apply here.
SR.VII. Wire transfer rules	PC	<ul style="list-style-type: none"> Sovereign Order 631 of 10 August 2006, published in the official journal of 18 August 2006, gives financial institutions six months from the date of publication, that is until 18 February 2007, to comply with its obligations. (referring to the date of the on-site visit, this comments affects compliance of the Monégasque system with all the key criteria concerning SR VII, from the standpoint of effectiveness). There is no legislation or regulation specifying the arrangements for verifying the identity of occasional customers who seek the services of a Monégasque financial institution to carry out a wire transfer valued at under € 15,000. Monégasque law authorises the application of the measures intended for batch transfers to certain routine international transfers that are not batched. This exception, which is not provided for in Special Recommendation VII, is not accompanied by binding legal obligations of a sufficient nature. The comments on recommendations 23, 29 and 30 on supervision by the authorities and sanctions also apply to compliance with obligations concerning national and international transfers.

SR.VIII Non-profit organisations	PC	<ul style="list-style-type: none"> • The authorities have to a certain extent reviewed the adequacy of their laws and regulations however this does not seem to have included a formal assessment of risks. • Reservations on the authorities' capacities to obtain up to date information on activities, size and other aspects relevant to this sector (important number of dormant associations whose information is not up to date). • Lack of information on the outreach to the NPO sector on the issue of financing of terrorism.
SR.IX Cross Border Declaration & Disclosure	PC	<ul style="list-style-type: none"> • Although the existing measures to some extent satisfy the key criteria, the effectiveness of the implementation of this recommendation can be seen to be undermined.

Table 2. Recommended Action Plan to improve the AML/CFT system

FATF 40+9 Recommendations	Recommended Actions (listed in order of priority)
Legal System and Related Institutional Measures	
2.1 Criminalisation of Money Laundering (R.1 and 2)	<ul style="list-style-type: none"> • Although the change to article 218-3 appears to satisfy international standards, the Monégasque Authorities should consider revising it with regard to the lower limit required by the European regulation. • The authorities should ensure that all designated categories of offence are covered, including the financing of terrorism within the overall meaning of the recommendations and the interpretative note. • The authorities should clarify the level of proof in the predicate offence. • The law should permit the intentional element of the offence of ML to be inferred from objective factual circumstances. • To facilitate the setting up of the new provision, the authorities should consider issuing a manual presenting the AML/CFT law and information on the laundering offence (definition, typology, material elements, intentional element, level of proof required etc.). • The authorities should accelerate the internal process and extend the criminal liability to legal persons in the Criminal Code.
2.2 Criminalisation of Terrorist Financing (SR.II)	<ul style="list-style-type: none"> • The authorities should review the FT definition and clarify its legal framework so that the FT offences can apply to any person who, by any means, directly or indirectly, unlawfully and willfully provides or collects funds, with the intention that they should be used or in the knowledge that they are to be used, in full or in part by a terrorist organization or an individual terrorist. • The offences should not require that the funds are linked to one or several specific terrorist acts. • The law should permit the intentional element to be inferred from objective factual circumstances. • Art. 391-6 of the Criminal Code should be reviewed to ensure that the family members of a terrorist are liable in case of implication.
2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)	<ul style="list-style-type: none"> • The authorities should authorize in internal law the confiscation of property of corresponding value that belongs to the launderers assets if the proceed of crime or its reuse are no longer possible. • The authorities should consider the possibility to establish in internal law an independent confiscation procedure to permit in national law, after investigation, the confiscation of legacy values separate from the prosecution of an offender or a foreign confiscation judgment. • The authorities should consider the possibility to establish mechanisms in internal law to reverse the burden of proof at least for seized values that are susceptible to belong to a criminal organisation or to be controlled by them.
2.4 Freezing of funds used for terrorist financing (SR.III)	<p>The evaluators recommend to the Monégasque authorities to review the existing legal framework and to take all complementary measures:</p> <ul style="list-style-type: none"> • To ensure that the freezing of assets and other values belonging to persons and entities defined, the <i>Comité des Sanctions</i> (S/RES/1267 – 1999) can intervene without further notice. • To give the Principality efficient rules and procedures to examine the initiatives taken on behalf of freezing mechanisms of foreign countries et make them effective if the need arises. • To review the communication system to financial sector of measures taken on behalf of freezing mechanisms (see the best international practice on the freezing of terrorists assets) and its efficiency. • To give clear instructions to the financial institutions et other persons or entities susceptible to detain funds or other values. • To ensure that the procedures on listing/delisting and freezing/unfreezing are

	<p>known by the people.</p> <ul style="list-style-type: none"> • To detail the measures concerning the access to the funds to ensure they cover the basic and extraordinary expenses in the sense of the Resolution S/RES/1542 (2002). • To pursue actively the recognition of the requirements of the Security Council and of the SR.III, and to proceed to an efficient follow-up of the respect of these requirements.
2.5 The Financial Intelligence Unit and its functions (R.26 & 30)	<ul style="list-style-type: none"> • The authorities should adapt the law 1162 to put it in accordance with the new art. 218 of the Criminal Code and make SICCFIN able to process and analyze STRs with regard to all the predicate offences that have been established by the new regulation. • An explicit legislative or normative enactment should be established concerning SICCFIN or other competent authorities in order to require from the financial institutions or other declaring entities advice on how the declarations should be made. This includes the specification of the forms of the declarations and the procedures to follow if a declaration is made. • The authorities should review the access of SICCFIN to the information on administrative matters in due time, particularly regarding the information kept by the French customs. • The authorities should consider taking measures regarding the legal and normative framework of SICCFIN to explicitly formalize within the legislation the set up process that allows it to decide independently on investigation and transmission issues and to suppress every potential interrogation on its autonomy. • The SICCFIN should complete its annual report and include more information on methods, trends and typologies.
2.6 Law enforcement, prosecution and other competent authorities (R.27 & 28)	<ul style="list-style-type: none"> • Given that the repressive system is mostly reactive, the evaluators recommend to the authorities to take measures to analyze the reasons of such a practice and to find a solution relevant to the Monégasque context. • The authorities should consider adopting guidelines to assist the authorities in their investigations. • In the context of the modification of the Criminal Procedure Code, the authorities should introduce provisions that allow the competent authorities to postpone or waive the arrest of suspected persons and/or the seizure of the money for the purpose of identifying persons involved in such activities or for evidence gathering. • The authorities should also ensure that the introduction of special investigative techniques will allow the law enforcement authorities to use the main techniques – such as means of technical control of telecommunication, of internet and mail, and also special investigation means – when they investigate on AML/CFT issues. • The authorities should ensure that the law enforcement authorities, the FIU and the other competent authorities work jointly and on a regular basis on the methods, techniques and trends of ML and FT in the Principality of Monaco and that the issuing results and analyses circulate between the staff of the law enforcement authorities and the other competent authorities.
2.7 SR. IX Cross border declaration and disclosure	<ul style="list-style-type: none"> • The authorities should set up procedures of systematic transmission of the data concerning the official reports on violation of the cross-border transportation of currency, or bearer negotiable instruments on the Monégasque or French territory susceptible of interesting SICCFIN or the judicial authorities of the Principality, and on the results of the declarations and the controls that have been made. • The authorities should set up a system to collect statistical data in order to be able to control the effectiveness of the system, considering that this is implemented by the competent French authorities. • Lastly, the authorities should review the setting up of the SR. IX in its entirety and to take measures, if the need arises in co-operation with the French authorities, to ensure its setting up having regard to all the essential criteria.

Preventive Measures – Financial Institutions	
3.1 Risk of money laundering or terrorist financing	No action recommended.
3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)	<p>Recommendation 5:</p> <ul style="list-style-type: none"> • Additional measures should be introduced by the Monégasque authorities to prevent any anonymous financial transactions using bearer treasury and other short term bonds (though their use is very limited). • The Monégasque authorities should modify the formulation of the obligation to identify the usual customers, so that this disposition applies explicitly and with certainty to every person with whom business relationships are entered into, independently of the opening of an account. • The verification modalities of the identity of occasional customers wishing to make a wire transfer valued at under € 15,000 should be clearly defined by binding provisions. • The elements on which the identification of trusts is based should be more accurate and should indicate more clearly for the concerned entities who has to be identified during a trust identification. • The Monégasque provisions should be adapted to include, as beneficial owners, the persons who have no share of the capital but still provide the leadership of or “brains behind” a company and persons who have established trusts. • Without reconsidering the fact that every financial institution, as far as it is concerned, is obliged to define the most appropriated concrete modalities of identification of high risk situations that require an increased vigilance, and jointly with the threshold of € 100,000 above which the vigilance regarding the clients operations needs to be reinforced, the Monégasque authorities should define what conditions these individual systems should satisfy to be considered as adequate. The Monégasque authorities should publish in particular guidelines concerning the setting up of the risk-based approach referred to in art. 5, al.2, 4th and 5th dashes of the OS. • The provisions that are in force concerning the increased vigilance should be completed to specify the additional responsibilities to which the entities are bound, beyond the obligation to proceed to a new customer identification. • Though the Monégasque authorities maintain that the financial institutions are not allowed, other than in situations specified in law, to exercise simplified diligence in situations that they themselves have identified as low risk, the wording of the regulations does not unambiguously exclude this possibility. • The provisions authorizing a lower level of diligence for customers that are public companies do not require them to be subject to the laws of countries that comply with and apply the FATF recommendations. • The provisions authorizing a lower level of diligence for customers that are financial institutions subject to the legislation or public companies do not stipulate exceptions when there are suspicions of money laundering or terrorist financing. <p>Recommendation 6:</p> <ul style="list-style-type: none"> • The authorities should complete the notion of PEP by presenting recommendations inspired of the glossary definition of the 40 Recommendations of the FATF to indicate more precisely the specified functions. <p>Recommendation 7:</p> <p>The Monégasque authorities should complete the applicable provisions on correspondent banking to allow, in particular, that:</p> <ul style="list-style-type: none"> • The obligation to collect sufficient covers checks on whether the institution concerned has been investigated or the subject of action by the AML/CFT supervisory body. • The conclusion of correspondent banking relationships requires financial establishments to assess client institutions’ and reference to checks on their

	<p>suitability or efficacy.</p> <ul style="list-style-type: none"> • The approval from senior management is required before establishing new correspondent banking relationships. • The respective AML/CFT responsibilities of the Monégasque and client institutions have to be set down in writing within the framework of banking representation relationships. <p>The competent Monégasque authorities should establish guidelines or recommendations for the Monégasque financial institutions concerning the appreciation of the equivalence of the legislation and of the controls that are applicable on AML/CFT issues in the country where the foreign institution is established.</p> <p>Recommendation 8:</p> <ul style="list-style-type: none"> • The existing measures should be completed to include the obligation for financial institutions to establish policies or procedures to deal with the misuse of new technologies for money laundering or terrorist financing purposes. This point could seem of particular relevance on the supposition that the restrictions to which the financial institutions are submitted regarding the use of new technologies to transactional purposes should be relaxed.
3.3 Third parties and introducers (R.9)	<ul style="list-style-type: none"> • An enforceable legal rule should be established, requiring Monégasque financial institutions to ensure that third party business generators have satisfied all the due diligence requirements in FATF Recommendation 5. • The competent authorities should issue instructions or recommendations on how to assess the equivalence of AML/CFT legislation and controls to be applied in countries where foreign client institutions are based (see R.7).
3.4 Secrecy laws consistent with the Recommendations (R.4)	
3.5 Record keeping and wire transfer rules (R.10 & SR. VII)	<p>Recommendation 10:</p> <ul style="list-style-type: none"> • The Monégasque authorities should complete the provisions concerning the data and record keeping to explicitly provide for the required period for the retention of documents relating to transactions to be extended of requested by the competent authority in specific cases, if it is necessary to carry out their responsibilities. The same applies to the retention in writing of identification information, accounting documentation and commercial correspondence. • The law or regulation should as well be complemented in order to specify that data and documents must be maintained in a form that makes it possible to reconstruct individual transactions and provide evidence in the case of prosecution. <p>Special Recommendation VII:</p> <ul style="list-style-type: none"> • The existing provisions should be completed to specify the arrangements for verifying the identity of occasional customers who seek the services of a Monégasque financial institution to carry out a wire transfer valued at under € 15,000. • The Monégasque framework should be completed to submit the application of simplified communication measures of information concerning the ordering party within the framework of routine international transfers that are not batched (exception not provided in SR.VII) to additional binding conditions guaranteeing sufficiently no misuse of this exception.
3.6 Monitoring of transactions and relationships (R.11 & 21)	<p>Recommendation 11:</p> <ul style="list-style-type: none"> • The legal framework should be reviewed so that the size of transactions and their complexity or abnormality should be alternative rather than cumulative criteria for determining whether financial institutions should be required to show increased diligence, also the Monégasque authorities. <p>Recommendation 21:</p> <ul style="list-style-type: none"> • The Monégasque authorities should provide for enforceable measures requiring increased diligence in connection with business relationships or transactions with

	counterpart institutions with links to countries that do not properly apply the FATF Recommendations.
3.7 Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR IV)	<p>Recommendation 13:</p> <ul style="list-style-type: none"> • The Monégasque legal framework should be completed so that all designated categories of offences, as defined by the FATF, can apply in all circumstances, whether or not they result from organised criminal activity. • It should furthermore be adapted so that the reporting requirement in Monégasque legislation does not cover all suspicious transactions, such as attempted operations that have failed for reasons other than that the financial institution has refused to carry out the transaction. <p>Recommendation 14:</p> <ul style="list-style-type: none"> • No recommended action. <p>Recommendation 19:</p> <ul style="list-style-type: none"> • No recommended action. <p>Recommendation 25:</p> <ul style="list-style-type: none"> • The competent Monégasque authorities should complete the instructions and recommendations they have addressed to the financial institutions to assist them more systematically on all the main issues that the application of preventive measures is likely to raise in practice. • The authorities should ensure the implementation of mechanisms guaranteeing the organisations and individuals concerned by this information ready and rapid access to information regarding methods and trends of ML and the evolution of the phenomena (especially through the dissemination of the results of the liaison committee's activities). • Given the professional confidentiality of SICCFIN staff, it is necessary that the Monégasque authorities examine whether the adoption of specific legal provisions would enable to provide a more comprehensive and systematic specific feedback to financial institutions on action taken on suspicious transactions that they have reported. <p>Special Recommendation IV:</p> <ul style="list-style-type: none"> • The Monégasque law should be completed so that the reporting requirement also extends to attempted operations that have failed for reasons other than that the financial institution has refused to carry out the transaction, in particular because customers themselves decide not to continue with a transaction after first having requested it.
3.8 Internal controls, compliance audit and foreign branches (R.15 & 22)	<p>Recommendation 15:</p> <p>The legal framework should be completed (at least concerning the financial institutions others than banks) so that:</p> <ul style="list-style-type: none"> • The officer or employee in charge of suspicious transaction reporting does not have overall responsibility by law for the organisation and internal control of AML/CFT measures within the financial undertaking. • It is required that the financial institution gives him the status and powers to enable him to fulfil his duties. • The law or regulations give him an access to all necessary information. • These financial institutions be explicitly required to maintain an independent internal control function, endowed with sufficient resources, entailing sanctions for non-compliance. <p>Apart from the criteria for issuing work permits, the existing device should be modified to enable the financial institutions to verify the honesty of candidates for employment before they are hired.</p> <p>Recommendation 22:</p> <ul style="list-style-type: none"> • Article 13 of Law 1162 of 7 July 1993 should be modified to extend all of Monaco's legislation and regulations on prevention to subsidiaries and branches

	<p>located abroad, and require from those to pay special attention to compliance with the relevant principles in the case of subsidiaries and branches located in countries which do not or which insufficiently apply the FATF Recommendations.</p> <ul style="list-style-type: none"> • The legislation and regulations should also require that where the minimum standards applicable in Monaco differ from those of the country where a branch or subsidiary is located, the most stringent legislation should then be applied. • Monaco's law should also require financial undertakings to inform SICCFIN if the local legislation or regulations applicable to their subsidiaries or branches does not authorise the application of the preventive measures in force in Monaco as a whole.
3.9 Shell banks (R.18)	<ul style="list-style-type: none"> • The evaluators recommend to the authorities to ensure the effectiveness of the new law on this matter.
3.10 The supervisory and oversight system – competent authorities and STRs(Role, functions, duties and powers (including sanctions)) (R.23, 29, 17 & 25)	<ul style="list-style-type: none"> • The authorities should establish an action plan to reinforce significantly and the sooner the exercise of the control function on financial institutions. <p>Recommendation 23:</p> <ul style="list-style-type: none"> • The Monégasque preventive framework should be extended to mutual fund management companies. • The Monégasque framework should also be modified so that the insurance intermediaries (brokers and agents) shall be explicitly subject to it. <p>Recommendation 29:</p> <ul style="list-style-type: none"> • The Monégasque authorities should consider completing the range of administrative sanctions (notably by establishing the possibility of administrative fine) to improve its progressiveness and to allow a more proportionate application of the sanctions to the seriousness of the violation identified (cf. R17). <p>Recommendation 17:</p> <ul style="list-style-type: none"> • The Monégasque authorities should consider completing the range of administrative sanctions (notably by establishing the possibility of administrative fine) to improve its progressiveness and to allow a more proportionate application of the sanctions to the seriousness of the violation identified. • The Monégasque authorities should consider modifying the system of applicable sanctions so that, beyond the criminal penalties provided for in Articles 32 and 33 of the law, sanctions can be imposed on senior managers and employees of financial undertakings for violations of AML/CFT obligations. <p>Recommendation 32:</p> <ul style="list-style-type: none"> • No action is recommended concerning the control function of SICCFIN. <p>Recommendation 25:</p> <ul style="list-style-type: none"> • The competent Monégasque authorities should complete the instructions and recommendations they have addressed to the financial institutions to assist them more systematically on all the main issues that the application of preventive measures is likely to raise in practice.
3.11 Money value transfer services (SR.VI)	<ul style="list-style-type: none"> • Apart from the statutory provisions applying generally to exercise of economic or commercial activities in the Principality, specific provisions should be introduced in Monaco legislation laying down the conditions for the exercise of money transfer services.
Preventive Measures – Non Financial Businesses and Professions	
4.1 Customer due diligence and record keeping (R.12)	<ul style="list-style-type: none"> • The Monégasque authorities should put a stop to the legal uncertainty that comes from the decision of annulation No. 14.466 of 22 April 2000 pronounced by the Supreme Court the 6 March 2001, as it only points out the lawyers. They should ensure that the lawyers are subject to the preventive obligations provided for in the Recommendation 12 of the FATF. <p>The legal framework applicable to the casinos should be completed so that:</p> <ul style="list-style-type: none"> • They are required to ensure that the customers are acting on their own behalf or

	<p>on behalf of effective beneficiaries.</p> <ul style="list-style-type: none"> • They are required to determine which of their customers are PEPS and to submit their relationships with such customers to enhanced monitoring. <p>Other DNFBPs (in particular real estate agents, dealers in precious metals and precious stones, notaries, legal and tax advisers and other independent accounting professions) should:</p> <ul style="list-style-type: none"> • Be subject to due diligence with regard to customers and their transactions in accordance with FATF Recommendations 5, 6, 8, 9 and 11. • Be required to keep customer identification and transaction records in accordance with FATF Recommendation 10. • In the case of casinos and other businesses and professions covered by article 2 of the law, the legislation and regulations should be completed so that the violation of the obligations here above mentioned can be subject to sanctions, and so that these sanctions can be imposed not only to the natural person or person who can be held liable for the criminal offence but also to the gaming house or business itself. • In the case of casinos, the applicable framework should be completed so that breaches of requirements in matters of customer due diligence or organization and implementation of preventive procedures can constitute grounds for imposing an enforcement measure or sanction, except where it can be proved that the breaches resulted in a failure to report suspicious transactions, liable to criminal penalties. • The limitation of the financial activities of the SFE to those that are in relation with the games provided by the motherhouse (SBM) results from the practice, and is not based on legislation, regulations or statutory rules. The Monégasque authorities should establish this limitation of the activities of the SFE on a certain legal basis.
4.2 Suspicious transaction reporting (R.16)	<p>Regarding all DNFBPs:</p> <ul style="list-style-type: none"> • The applicable framework should be modified so that the reporting requirement covers all the underlying offences referred to in FATF Recommendation 1, independently of the commission or not by a criminal organisation. • The applicable framework should be modified so that the undertaking or business in the framework of which the suspicious transaction has been carried out can be liable for an administrative penalty for the failure to report the transaction, even though the statutory conditions for imposing the criminal sanction provide for in Article 32 of the law have not been satisfied, or where the facts are not sufficiently serious to warrant such a criminal sanction. • The Monégasque authorities should have recourse to binding and enforceable measures to lay down special vigilance measures regarding business relationships or transactions with counterparties having links with countries which fail to apply or insufficiently apply the FATF Recommendations. <p>Regarding CSPs and trustees:</p> <ul style="list-style-type: none"> • The applicable framework should be modified so that the reporting requirement laid down in Monaco legislation can cover attempted transactions which have not taken place for any reason other than a refusal by the financial undertaking to carry out the transaction, including cancellation of the transaction by the requester himself or herself. <p>Regarding CSPs, trustees and casinos (cf. Section 3.8.3):</p> <ul style="list-style-type: none"> • All the above mentioned recommended actions in 3.8 should be put in place. <p>Regarding casinos and other DNFBPs:</p> <ul style="list-style-type: none"> • The applicable legislation or regulations should be modified so that these businesses and professions can be subject to the obligation to report a suspicious transaction, whether when the professional in question has refused to carry out the transaction, or in the case of a transaction which does not go ahead for whatever reason, including cancellation by the individual concerned. <p>Regarding other DNFBPs:</p> <ul style="list-style-type: none"> • The applicable legislation or regulations should be modified so that organisational or internal control measures are put in place, following criterion 16.1,

	<p>in accordance with FATF R. 15.</p> <ul style="list-style-type: none"> The applicable legislation or regulation should be modified so that SICCFIN can be kept informed about suspicious transaction reports filed by the notaries with the Principal State Prosecutor and of the subject matter of such reports.
4.3 Regulation, supervision and monitoring (R.24-25)	<p>Recommendation 24:</p> <ul style="list-style-type: none"> Regarding the CSPs and the trustees, additional means should be put at the disposal of SICCFIN to allow it to increase significantly the frequency of the on-site controls. Additional means should also be allocated to SICCFIN, jointly with the enlargement of the preventive obligations of DNFBPs, to allow this authority to exercise effectively its on-site control missions and of the respect of the obligations of these businesses and professions. <p>Recommendation 25:</p> <ul style="list-style-type: none"> Parallel to the recommended extension of the preventive obligations for the DNFBPs (see 4.1 and 4.2), the competent Monégasque authorities should circulate instructions and recommendations able to provide a systematic assistance on all main issues that the application of preventive measures is likely to raise in practice; more on that issue in 3.10.
4.4 Other non-financial businesses and professions (R.20)	
Legal Persons and Arrangements & Non-Profit Organisations	
5.1 Legal Persons – Access to beneficial ownership and control information (R.33)	<ul style="list-style-type: none"> The authorities should consider satisfying the recommendations formulated in the report concerning the beneficial owners and the control of legal persons and introduce a surveillance framework of the service providers to the undertakings, imposing them to verify and keep the adequate, exact and updated information concerning the beneficial owners and the structure of control of the legal persons.
5.2 Legal Arrangements – Access to beneficial ownership and control information (R.34)	<ul style="list-style-type: none"> The procedure put in place should allow to record all necessary information concerning ownership and control of trusts (settler, administrator, beneficiary, protector). The information being held should be exact and updated. Thus the provisions concerning the updating of the list kept by the Court of Appeal should be reviewed. The authorities should take measures so that the competent authorities can obtain in relevant time adequate, exact and updated information on the beneficial owners and on the control of trusts, in particular on persons who created the trusts, the administrator and the beneficiaries.
5.3 Non-profit organisations (SR. VIII)	<ul style="list-style-type: none"> The authorities should consider reviewing the adequacy of their laws and regulations and include a formal assessment of risks potential misuse of these institutions for terrorist financing purposes. Taking into consideration the actual process of reviewing the whole legislation concerning associations and foundations, the authorities should ensure that the draft laws contain the measures of the best international practices concerning SR VIII, in particular regarding transparency and control. The authorities should review the actual legal framework to ensure that comprehensive information on activities, size and other aspects relevant to this sector are up to date and available. The authorities should consider reinforcing the staff taking care of the issues concerning this sector. The authorities should take measures to sensitize the NPOs to the terrorist financing issues.
National and International Co-operation	
6.1 National Co-operation and coordination	<ul style="list-style-type: none"> The Monégasque authorities should reinforce their co-operation and

(R.31)	<p>coordination with the French customs at national level.</p> <ul style="list-style-type: none"> The authorities should consider taking measures to increase the collaboration with other control authorities.
6.2 The Conventions and UN Resolutions (R.35 & SR.I)	<p>Recommendation 35:</p> <ul style="list-style-type: none"> It is important that the Principality takes additional measures to carry out effectively the legislation and regulations (incrimination, criminal liability for legal persons, special techniques of investigation) and to take measures to treat the cross-border cash transfer issues (Articles 15,17 and 19 of the Vienna Convention et Article 7.2 of the Palermo Convention); <p>Special Recommendation I:</p> <ul style="list-style-type: none"> It is important that the Principality ensures the effectiveness of the measures taken related to SR III. The authorities should furthermore reconsider the reservations that were formulated on the Convention on laundering, search, seizure and confiscation of the proceeds of crime.
6.3 Mutual Legal Assistance (R.36-38, SR.V)	<ul style="list-style-type: none"> The authorities should put in place mutual legal assistance mechanisms, notably through internal laws and through bilateral co-operation, allowing the foreign judicial authorities to request the largest co-operation from the Monégasque judicial authorities. The authorities should develop the network of bilateral and multilateral international co-operation treaties to facilitate the execution of the active international assistance in the national procedures in order to obtain proves that are abroad. The authorities should introduce a legal basis and rules of procedures to allow the use of special techniques of investigation in the framework of the international co-operation. The authorities should remove the pre-condition of prepaid expense by the requesting state to freeze the funds. The authorities should consider creating a special fund to receive the confiscated assets based on foreign judgements that are not restored or shared. It is important that the Principality ensures the possibility to give assistance concerning the financing of a terrorist organisation or of a terrorist.
6.4 Extradition (R.37 &39, & SR V)	<ul style="list-style-type: none"> The Principality should sign and ratify the European Convention on extradition and intensify the network of bilateral conventions. It is important that the Principality ensures the possibility to extradite for all financing of terrorism violations.
6.5 Other Forms of Co-operation (R.40 & SR V)	<ul style="list-style-type: none"> The authorities should modify Article 31 of the Law 1162 not to limit the scope of information exchanges and ensure that it is possible in relation with money laundering and predicate offences. The authorities should modify Article 31 to explicitly implement the possibility of spontaneous communications with other FIUs. The authorities should review the legislation and regulations on exchange with the foreign control authorities in order to allow a wide international co-operation.
Other Issues	
7.1 Resources and Statistics (R. 30 &32)	<p>Recommendation 30:</p> <ul style="list-style-type: none"> The Monégasque authorities should review the resources of the police responsible of financial investigations pointing at violations that generate important proceeds, to reinforce the effectiveness of the confiscation mechanism. The resources, notably human, left at the disposal of SICCFIN to fulfil its on-site control mission on the financial institutions should be significantly increased so that the effectiveness of this function can be reinforced. The authorities should conduct an assessment of the number of staff within the

	<p>public prosecution service and the investigative judges' offices, taking into account the total number of cases of economic and financial crime, with a view to envisaging an increase in staff numbers if necessary.</p> <ul style="list-style-type: none"> • The authorities should ensure that the rotation system of the magistrates does not affect the effectiveness and the continuity of investigations on AML/CFT issues. • The authorities should review the legal framework to remove all uncertainties or interrogations about the level of independence and autonomy of the investigative and prosecution authorities. <p>Recommendation 32:</p> <ul style="list-style-type: none"> • The authorities should keep comprehensive statistics on investigations and prosecutions (including the reasons of a non-conviction) and convictions, allowing to distinguish the cases of laundering committed by the author of the predicate offence. • The authorities should ensure the effectiveness of the Monégasque confiscation regime. • The competent authorities should keep comprehensive annual statistics on the declarations concerning physical cross-border transportation of currency or bearer negotiable instruments and international wire transfers. • The SICCFIN should implement in its statistics information on the predicate offences and on the closed cases, for a best understanding of the methods, trends and typologies of laundering acts after the coming into force of the new provisions. • The authorities should keep more detailed statistics to demonstrate the effectiveness of the prosecution authorities' action. • The authorities should keep comprehensive statistics concerning the implementation of SR IX. • The statistics concerning the mutual assistance should be completed to allow a more global vision of all requests received by the Director of the Judicial Services relating to money laundering, to predicate offences and to terrorist financing, including the nature of the request, whether it was granted or refused and the time required to respond. • The authorities should keep comprehensive statistics on the mutual assistance requests concerning money laundering, predicate offences and terrorist financing. • Comprehensive statistics should be kept by the FIU on the spontaneous sending of information.
7.2 Other measures and relevant subjects on AML/CFT issues	-
7.3 General structure of the AML/CFT system – Elements of structural nature	-