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**Voluntary peer review of consumer protection law
and policy of Gabon: Overview*, ****

* The findings, interpretations and conclusions expressed herein are those of the authors and do not necessarily reflect the views of the United Nations or its officials or Member States. The present document is an overview of a full report on the voluntary peer review of consumer protection law and policy of Gabon.

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I. Introduction

1. In its resolution 70/186 of 22 December 2015 on consumer protection,¹ the United Nations General Assembly reaffirmed that the United Nations guidelines for consumer protection are a set of principles on which Governments should base the formulation and implementation of their consumer protection policies.² The guidelines support the development of appropriate consumer protection legislation and the establishment of adequate enforcement institutions.

2. The Intergovernmental Group of Experts on Consumer Protection Law and Policy of the United Nations Conference on Trade and Development is mandated, inter alia, to conduct voluntary peer reviews of national consumer protection law and policy as implemented by Member State authorities. After Morocco, Gabon is the second African State to volunteer to submit its policy and legislation to peer review.

3. The purposes of this review are to provide an external and independent assessment of the effectiveness of consumer protection law and policy in Gabon; to identify challenges and areas to be improved in the legal and institutional frameworks; to devise and recommend appropriate measures to address those challenges, taking into account the country's particular economic and development characteristics; and, if necessary, to assist in implementing recommendations by developing capacity-building projects in consultation with the authorities. This note is an overview of a full report that provides a point of departure for discussion of the review.³

II. Political, economic and social context

4. Gabon has been an independent republic since 17 August 1960.⁴ It has 2.2 million inhabitants. Significant forest and oil resources have made it one of the most prosperous countries in Africa. It has a GDP per capita of \$7,490. Its economy is based on exports of oil (72 per cent), manganese (17 per cent) and timber (10 per cent).⁵ The unemployment rate stands at 20 per cent overall, 32 per cent among women and 36 per cent among youth.⁶ The school enrolment rate is estimated at 70 per cent. The poverty rate is estimated at 33.4 per cent. Ninety-eight per cent of the population has access to electricity and 89 per cent has access to drinking water.⁷ Life expectancy is 66.5 years (64.8 years for men and 68.2 years for women). Half of the population has health insurance. The infant mortality rate stands at 44.8 per 1,000 live births.⁸ Politically and institutionally, Gabon is a semi-presidential republic⁹ in which the President is the Head of State and the Prime Minister is the Head of Government. The legislative branch is made up of the National Assembly and the Senate. At the subregional level, Gabon belongs to the Central African Economic and Monetary

¹ A/RES/70/186.

² The guidelines are a valuable set of principles for setting out the main characteristics of effective consumer protection legislation, enforcement institutions and redress systems and for assisting interested Member States in formulating and enforcing domestic and regional laws, rules and regulations that are suitable to their own economic and social and environmental circumstances, as well as promoting international enforcement cooperation among Member States and encouraging the sharing of experiences in consumer protection (A/RES/70/186).

³ United Nations Conference on Trade and Development, 2023. *Voluntary peer review of consumer protection law and policy: Gabon* (forthcoming).

⁴ See the official website of the Office of the President of the Republic, <https://presidence.ga/histoire-du-gabon/> (accessed on 29 December 2022).

⁵ See <https://gabon.un.org/sites/default/files/2022-05/ONU - RAPPORT ANNUEL 2021 GABON.pdf> (accessed on 4 January 2023).

⁶ World Bank, 2022. *Gabon – Country Economic Memorandum: Toward More Inclusive and Greener Growth*.

⁷ See <https://gabon.un.org/sites/default/files/2022-05/ONU - RAPPORT ANNUEL 2021 GABON.pdf>.

⁸ Ibid.

⁹ Constitution of Gabon, Act No. 3/91 of 26 March 1991.

Community (CEMAC)¹⁰ and the Economic Community of Central African States (ECCAS),¹¹ which has its headquarters in Libreville. Gabon is also a member of the Organization of Islamic Cooperation, the International Organization of la Francophonie and the Commonwealth.

III. Foundation and history of consumer protection law and policy

5. Consumer protection appears to be an ongoing concern of the Gabonese authorities. After independence, the State gradually developed its consumer protection legislation and in 1985 established the Directorate General for Consumer Affairs as the main body responsible for consumer protection. On 9 January 2023, the President of the Republic created the Ministry of Consumer Affairs and the Fight against the High Cost of Living.

IV. Legislative and regulatory framework

6. In Gabon, consumer rights are protected by domestic law and community law. Community law is the more developed, as the country does not have a specific consumer protection law.

A. CEMAC community law on consumer protection

7. General community law in the CEMAC subregion consists in a directive harmonizing consumer protection within the Community and various sector-specific consumer protection regulations. While the directive must first be transposed into Gabonese domestic law in order to have the force of law, this is not the case with the regulations, which are directly applicable in Gabon.

1. Directive harmonizing consumer protection

8. Under Directive No. 02/19-UEAC-639-CM-33 of 8 April 2019 harmonizing consumer protection within CEMAC, the implementation of consumer protection provisions must be based on respect for guiding principles that guarantee enshrined rights. The Directive recognizes 13 fundamental consumer rights, establishing the general framework for consumer protection in all CEMAC countries.

9. The Directive protects consumers from certain business practices. In particular, it prohibits:

- Unfair business practices¹²
- False and misleading business practices¹³

¹⁰ The objectives of CEMAC are to establish ever closer union between the peoples of member States; to promote national markets through the elimination of barriers to intercommunity trade, the coordination of development programmes and the harmonization of industrial projects; to develop the solidarity of member countries for the benefit of disadvantaged countries and regions; and to create a true African common market. The CEMAC member States are Cameroon, the Central African Republic, the Congo, Gabon, Equatorial Guinea and Chad. See <https://www.cemac.int/>.

¹¹ ECCAS aims to promote and strengthen harmonious cooperation and dynamic, balanced and self-sustaining development in all areas of economic and social activity, particularly industry, transport and communications, energy, agriculture, natural resources, trade, customs, monetary and financial matters, human resources, tourism, education, culture, science and technology and the movement of people, with a view to achieving collective self-reliance and raising living standards. Its member States are Angola, Burundi, Cameroon, the Central African Republic, Chad, the Congo, the Democratic Republic of the Congo, Equatorial Guinea, Gabon, Rwanda and Sao Tome and Principe. See <https://ceeac-eccas.org/>.

¹² Directive, art. 32 on the general obligation of fairness.

¹³ Ibid., art. 35.

- Abusive business practices¹⁴

10. It strengthens consumer protection by setting out a specific legal regime on unfair terms and prohibits economic operators from placing or making available on the market dangerous products or services.¹⁵

11. The Directive has not yet been fully transposed into Gabonese law. A deadline of two years was set for CEMAC member States to transpose the directive into their national legislation. Not all of them have yet done so.

2. Other community laws for consumer protection

12. CEMAC community law includes regulations – which are directly applicable in Gabon – on a guaranteed minimum banking service; banking products and services; payment products and services; the variability of annual percentage rates and the prevention of usury; and air carrier liability. Given that financial services are important for consumers and merit adequate protection by States, the financial services regime, together with the rules on air transport – similarly important for consumers – are considered below.

(a) *Guaranteed minimum banking service*

13. Central African Banking Commission (COBAC) Regulation R-2020/04 of 30 July 2020 sets out the operations, products and services that make up the minimum guaranteed banking service and the scope of the services concerned. These services include the opening and maintenance of accounts, the issuance of bank account details, the issuance and renewal of savings books, balance inquiries in branch, balance inquiries at automatic teller machines operated by the cardholder's institution, electronic debit or credit advice, and the delivery of monthly bank statements and an annual summary of fees and operations not requested by the consumer. The regulation applies not only to credit and payment institutions, but also to microfinance institutions.

(b) *Banking products and services*

14. Regulation No. 01/20/CEMAC/UMAC/COBAC of 3 July 2020 requires banks to publish the terms and conditions applicable to clients, prohibits any advertising of banking products or services that includes false information, and prohibits the use of email for advertising purposes without the prior express consent of the consumer.¹⁶

15. The Regulation also provides for the amicable handling of consumer complaints and actions.

(c) *Payment products and services*

16. Regulation No. 04/18/CEMAC/UMAC/COBAC of 21 December 2018 on payment services introduces measures to protect consumers' funds. It stipulates that these funds must not be used to meet a banking institution's operating needs or to finance loans to clients. They may only be used for payment transactions and are protected against any recourse by creditors, including any enforcement proceedings or collective proceedings for the settlement of liabilities that may be initiated against the institution.

(d) *Variability of annual percentage rates and prevention of usury*

17. Regulation No. 04/19 CEMAC/UMAC/CM of 10 August 2020 on annual percentage rates, the prevention of usury and the publication of banking terms and conditions in CEMAC protects financial services consumers by promoting transparency, equity and effective competition.¹⁷ Institutions must periodically declare, to the national economic and financial

¹⁴ Ibid., art. 40.

¹⁵ Ibid., art. 103.

¹⁶ Regulation No. 01/20/CEMAC/UMAC/COBAC of 3 July 2020, art. 8.

¹⁷ Regulation No. 04/19 CEMAC/UMAC/CM of 10 August 2020, third recital.

committee of the country in which they are established, the annual percentage rates applicable to all loans granted to clients.¹⁸

(e) *Air carrier liability*

18. Regulation No. 06/07-UEAC-082-CM-15 of 19 March 2007 lays down the air carrier liability regime in the event of a violation of passenger boarding rules in the airports of CEMAC member States. The Regulation establishes the obligation to inform victims of their rights and a financial compensation mechanism.

B. Domestic consumer protection law

1. 2022 bill on the organization of consumer protection

19. This bill is in line with the CEMAC directive on consumer protection, the United Nations guidelines for consumer protection and international best practices.¹⁹

20. Its scope is quite broad and covers transactions in many sectors of activity, such as health, pharmacy (including traditional medicines), food, household appliances, cars, water, energy, housing, education, financial and banking services, insurance, transport, tourism, telecommunications, electronic communication services and other market services.²⁰

21. Article 39 of the bill empowers the Directorate General for Competition, Consumer Affairs and Fraud Prevention to investigate complaints and impose penalties. Other major innovations include the recognition of the right of accredited associations to act in defence of the collective interests of consumers and the introduction of simplified and rapid procedures for addressing consumer disputes. The bill also proposes to introduce free access to justice for the resolution of consumer disputes, in accordance with the pro-consumer principle.

22. Furthermore, the bill would enable accredited consumer associations to join criminal proceedings against economic operators who break the law.

2. Other domestic laws contributing to consumer protection

23. Gabon has various other laws that contribute to consumer protection.

(a) *Consumer information and education*

24. The Civil Code deals generally with consumer protection insofar as it establishes the obligation of fairness and good faith in the execution of contracts and the penalties for breach of contract.

25. Article 10 of Ordinance No. 50/78 of 21 August 1978 on the quality control of food products and foodstuffs and fraud prevention sets out certain arrangements for the provision of information to consumers. Circular No. 004130/MEPPDD/SG/DGCC/DCN of 27 November 2017 also concerns the provision of information to consumers. It requires the use of the French language and the transmission of information on the quality and price of goods and services in a language that consumers can readily understand, and provides for the

¹⁸ *Ibid.*, art. 11.

¹⁹ Article 1 of the bill, on its object and scope, states that upon adoption in accordance with article 47 of the Constitution and in conformity with Directive No. 02/19-UEAC-639-CM-33 of 8 April 2019 harmonizing consumer protection within CEMAC, the bill will establish the general framework of the consumer protection regime. Its objectives include protecting and defending consumers' interests against prejudicial clauses in contracts; ensuring that consumers are properly and clearly informed about the goods and services they acquire or use; ensuring the conformity of goods and services and the safety of consumers in accordance with the required standards; establishing the conditions and procedures for consumers to obtain compensation for harm or damage suffered; and allowing consumers to be represented by duly accredited associations.

²⁰ Bill, art. 2 (2).

inclusion of instructions so that consumers and users can use materials advisedly, ensuring their safety and that of their acquaintances.²¹

(b) *Quality control and product safety*

26. The aims of Ordinance No. 50/78 of 21 August 1978 on the quality control of food products and foodstuffs²² include the protection of consumers. The Ordinance applies to both goods and services.²³ It prohibits any misleading of consumers as to the essential qualities, composition and useful content of goods and the type, origin, quality and identity of items delivered.²⁴ It also prohibits the adulteration or attempted adulteration of foodstuffs for human or animal consumption, medicinal substances and beverages, and the sale or offering for sale of agricultural products, food products or foodstuffs that are harmful to the health, food that has passed its use-by date, adulterated food products or agricultural products and products manufactured in unhygienic conditions.²⁵ It also requires compliance with national standards where they exist, and regional standards where these have been adopted by the Government.²⁶

(c) *Price system*

27. Prices and trade have been liberalized under Act No. 14/98 of 23 July 1998 on the Competition Regime. This law followed Act No. 5/89 of 6 July 1989, the Competition Act, which had started the process of liberalizing the economy. The price system had previously been governed by the Act No. 29/63 of 15 June 1963, the Prices Act. Prices of certain products, such as bread, sugar, pharmaceutical products, textbooks and publications and hydrocarbons continue to be determined by specific regulations.²⁷ Similarly, the prices of certain services may be subject to controls or fixed by official order.²⁸

(d) *Electronic transactions and the protection of privacy and personal data*

28. The Electronic Transactions Act of 28 December 2021 applies to all electronic transactions, including information society services; activities of a non-economic nature, carried out remotely and by electronic means, relating to goods, services, rights or obligations; activities carried out remotely and by electronic means; and the digitalization of administrative and judicial procedures. Some activities are formally excluded from the scope of the Act.²⁹

29. Title II of the Act deals with e-commerce. Its provisions include the requirement for operators to provide recipients of services with sufficient information regarding the guarantee of protection of their personal data and privacy. Consumers have a period of 14 days during which they have a right of withdrawal, without having to justify their decision and without having to bear any costs other than the direct cost of returning the goods.³⁰

30. The Act also contains provisions on electronic evidence, including in respect of electronic signatures, electronic registered mail and electronic certification and filing.

²¹ The Circular gives the examples of labels, catalogues, brochures and leaflets.

²² Ordinance No. 50/78 of 21 August 1978 on the quality control of food products and foodstuffs and fraud prevention.

²³ Ibid., art. 3.

²⁴ Ibid., art. 4.

²⁵ Ibid., art. 5.

²⁶ Ibid., arts. 26 and 27.

²⁷ Act No. 29/63 of 15 June 1963, art. 7.

²⁸ These are services provided by practitioners of certain regulated professions, including but not limited to architects, hairdressers, insurers, transport and construction companies, doctors, real estate owners and freight forwarders.

²⁹ Under article 3 of the Act, these are gambling, including lotteries and transactions involving games of chance, even if legally authorized; activities related to the exercise of certain professions insofar as they entail direct and specific participation in the exercise of public authority; and security interests.

³⁰ Article 57 of the Act stipulates that “the period of 14 calendar days begins: for services contracts, on the date the contract is concluded; for goods contracts, on the date of delivery”.

Electronic documents are admitted as evidence in the same way as their paper equivalents and have the same probative force.³¹

31. Despite the above, the Act remains inadequate because its provisions are not comprehensive in scope.

(e) *Food transport and preservation*

32. Conditions for the transport and preservation of food products and foodstuffs are established by an order of 24 March 2005,³² which applies to all operations relating to the import, manufacture, storage, distribution and transport of food.³³ The order prohibits the possession or sale of food products and foodstuffs that have passed their use-by date and provides for administrative and criminal penalties.³⁴

(f) *Direct consumer credit operations*

33. Order No. 14 of 22 May 1992, as amended by Order No. 00009/MEFLBP/DGPEE of 10 May 2002, organizes consumer protection in the area of direct consumer credit operations. It protects consumers' right to information, stipulating that all advertising relating to these credit operations, regardless of the medium, must specify the identity of the lender, the nature, purpose and duration of the operation, the annual percentage rate, the total cost of the loan and any flat-rate charges.

(g) *Dispute resolution and redress*

34. Consumer disputes can be resolved in several ways, including amicably or through the courts.³⁵ While the dispute resolution through the courts is possible, in practice the applicable ordinary law does not encourage judicial proceedings, which has led most sectoral regulators to set up alternative dispute resolution mechanisms, including conciliation and mediation.

V. Institutional framework

A. Public institutions in charge of consumer protection

1. Directorate General for Competition, Consumer Protection and Fraud Prevention

35. The Ministry of Economic Affairs and Recovery, through the Directorate General for Competition, Consumer Protection and Fraud Prevention, has general responsibility for designing and implementing government policy on consumer affairs,³⁶ except in cases where these tasks fall within the competence of other ministries. The Directorate is the main public institution in charge of consumer protection in Gabon. To strengthen consumer protection, the Directorate has reorganized and streamlined its different departments.³⁷ It is evident that the Directorate is willing to work with other authorities in charge of consumer protection in order to solve the problem of overlapping competences, which have been observed both at the institutional and operational levels.

³¹ The Act specifies that, for electronic documents to be admitted as evidence, it must be possible to duly identify the person from whom they originate, and they must be drawn up and kept in conditions that ensure their integrity.

³² Order No. 426/MEFBP/DGCC establishing conditions for the transport and preservation of food products and foodstuffs.

³³ *Ibid.*, art. 2.

³⁴ The criminal penalties primarily take the form of fines.

³⁵ There are three alternative dispute resolution mechanisms: conciliation, in which the parties decide the outcome; mediation, in which a mediator helps the parties find the solution; and arbitration, in which the arbitrator decides the outcome, either on the basis of rules or after recourse to the other mechanisms.

³⁶ Decree No. 00253/PR/MER of 29 September 2022, art. 3.

³⁷ *Ibid.*, art. 42.

2. Other authorities contributing to consumer protection

36. Several ministries, by the nature of their work, contribute to the protection and defence of consumer interests. These include the Ministry of Health, which is in charge of developing and enforcing standards for the quality of care, drugs and medical devices and health infrastructure and equipment; the Ministry of Transport, which designs and implements road transport regulations and ensures the safety of passengers and respect for competition rules in the transport sector; the Ministry of Agriculture, which ensures sufficient and safe agricultural production; and the Ministry of the Environment, which ensures the sustainable management of natural resources.

37. There are also regulatory bodies that participate in consumer protection.

3. Regulatory bodies

38. These bodies operate in specific fields and report to parent ministries other than the Ministry of Economic Affairs and Recovery. All are independent authorities by virtue of their statutes.

(a) *Gabonese Food Safety Agency*

39. Its mission is to provide advice and scientific and technical assistance in all areas connected with food safety; to protect the health and interests of consumers while ensuring the smooth functioning of the internal market; to ensure the establishment of reserve stocks; to identify and characterize emerging risks, and to liaise with other agencies with similar structures related to food security and food safety.³⁸

(b) *Regulatory Authority for Electronic Communications and Postal Services*

40. Its activities include the preparation of studies and draft laws relating to the electronic communications and postal services sector, the equitable protection of consumers' interests and the imposition of penalties on offenders.³⁹

(c) *Regulatory Agency for the Drinking Water and Electricity Sectors*

41. It ensures the quality and continuity of drinking water and electricity services, while defending the general interest and the legitimate interests of users. Within this framework, it has investigative powers and can impose penalties.

(d) *Gabonese Standardization Agency*

42. Its mission includes implementing government policy in the areas of standardization, conformity assessment and metrology. It is also tasked with monitoring the quality of industrial products, services and equipment. On completion of its supervisory activities, it can impose penalties on dishonest operators.

B. Private institutions contributing to consumer protection

1. Consumer associations

43. There are many consumer protection associations. Some are generalist and deal with any issues that consumers might face, as in the case of the association SOS Consommateurs (SOS Consumers) and the Organisme gabonais des consommateurs (Gabonese Consumers' Organization). Others specialize in dealing with specific consumer protection issues. One example is the Association gabonaise des usagers de banques (Gabonese Bank Users Association); another is Brainforest, which specializes in forestry-related issues and their impact on Indigenous Peoples. These associations do not have the necessary financial and human resources to accomplish their missions, but they nonetheless provide daily assistance to consumers.

³⁸ Decree No. 0292/PR/MAPDR of 18 February 2011, art. 3.

³⁹ Decree No. 01106/PR/MCEN, art. 7.

2. The media

44. The media carry out public awareness-raising and educational activities through various communication channels. They also alert consumers to dangers linked to the use of certain types of products and services.

VI. Operational framework

A. Consumer information and education

45. The Directorate General for Competition, Consumer Affairs and Fraud Prevention has put in place new communication channels, including a toll-free number, a WhatsApp number, a Facebook page⁴⁰ and a website⁴¹ so that consumers can report market abuses and violations of their rights.

46. The Directorate conducts annual monitoring and survey activities, during which it also engages in awareness-raising. Every year, in close cooperation with consumer associations, it organizes a national activity with consumers and economic actors to mark the occasion of World Consumer Rights Day.

B. Counterfeit products

47. The Directorate has taken steps to detect counterfeit products. For example, it seized and destroyed 760,032 units of counterfeit “Rambo” insecticide and 6,480 cans of counterfeit “3X” energy drink.⁴²

C. Consumer health and safety

48. The Directorate is responsible for defining product and service quality and safety standards; preparing, drafting and enforcing general regulations on advertising, labelling and unfair commercial practices; certifying product and service quality standards; conducting analyses, preparing expert opinions and second opinions and testing the quality and safety of products and services; enforcing regulations on agreements and leases; transposing community and international law into domestic law; conducting studies on consumer affairs; and inspecting the quality and safety of industrial and commercial facilities.⁴³

49. The Directorate and the Gabonese Food Safety Agency organized a mission for the joint monitoring of the sale of water sachets. The aim of this activity was to identify informal operators and verify the hygiene conditions of raw materials, production units and labour with a view to improving consumer protection.

D. Handling of complaints by the Directorate General for Competition, Consumer Protection and Fraud Prevention

50. Complaints are usually resolved amicably through the reimbursement and compensation of aggrieved consumers. Action taken against offenders may include administrative penalties, awareness-raising, or reminding them of the regulations.

⁴⁰ <https://www.facebook.com/dgccrf.gabon/> (accessed on 15 March 2023).

⁴¹ <https://www.dgcc.ga/> (accessed on 20 March 2023).

⁴² The Directorate conducts counterfeiting investigations primarily in response to complaints by brand owners or representatives, on its own initiative and in response to international alerts.

⁴³ Decree No. 665/PR/MEFBP of 9 August 2004, art. 15.

E. International cooperation

51. Gabon participates in multilateral warning systems such as the Safety Gate rapid alert system.⁴⁴ It cooperates within the CEMAC framework in the reporting of products that may infringe consumer rights.

F. Inter-institutional cooperation

52. Operational bodies face certain difficulties, including conflicting competences, as a result of a lack of coordination of government action.

53. To solve this problem, the law might provide for the division of competences between the Directorate General for Competition, Consumer Protection and Fraud Prevention – which would be responsible for penalizing non-compliant operators – and the regulatory bodies, which would draw up reports based on their findings and forward them to the Directorate. Provision might also be made for joint activities (such as investigations) involving several ministries, in cases that concern their respective areas of competence.

54. It would also be appropriate to establish a stable platform for regular dialogue between public authorities, employers' organizations and consumer organizations on consumer protection issues.

VII. Conclusions

55. Consumer protection in Gabon is an ongoing concern of the public authorities. An appropriate consumer protection framework is underpinned by a clear vision, with two major assets: a national consumer protection policy and strategy that define the Government's approach, determine consumers' rights and assign responsibility for their protection to autonomous or independent administrative bodies; and an institution responsible for the administration and protection of consumer rights. In Gabon, this framework is still under construction, as evidenced by the adoption of Decree No. 0253 of 29 September 2022 on the establishment, responsibilities and structure of the Directorate General for Competition, Consumer Protection and Fraud Prevention and the very recent creation of the Ministry of Consumer Affairs and the Fight against the High Cost of Living.⁴⁵ Enablers of effective consumer protection include preventive mechanisms such as consumer information and education, prior control of product quality and the promotion of sustainable consumption patterns, and corrective mechanisms, including the financial, administrative and criminal penalties set forth in regulations.

56. In the legislative sphere, while the country does not have a specific consumer protection law, it does have a regulatory framework. While there is scope for this to be improved, it is based on the principles established by the United Nations guidelines for consumer protection.

57. In terms of the institutional framework, the consumer protection system has established competent authorities with a range of administrative, civil and criminal penalties at their disposal in the event of a duly verified infringement. Aggrieved consumers have several remedies through which they may obtain compensation.

58. Nevertheless, the protection system has abundant shortcomings, linked to the absence of a consumer culture, consumers' weak ownership of protection principles, and above all the inadequacy of human and financial resources for the fulfilment of mandates and the achievement of objectives. Other shortcomings relate to the lack of genuine interaction and cooperation between actors in a protection system created by a patchwork of laws and regulations, and the multiplicity of actors.

⁴⁴ <https://ec.europa.eu/safety-gate-alerts/screen/webReport>.

⁴⁵ See <https://gabonmatin.com/la-composition-du-gouvernement-gabonais-d-alain-claude-bilie-by-nze-du-9.html>.

59. All consumer protection actors in Gabon face certain challenges. For the Government, one major challenge is that of transposing the Directive of 2019 harmonizing consumer protection within CEMAC. For public consumer protection agencies, the main challenges relate to independence and interministerial cooperation. Companies face the challenge of self-regulation. Consumer associations are confronted with the challenges of professionalization and accountability. There is also an institutional challenge, as Gabon does not yet have any advisory body (a council, commission or observatory) with the authority or competence to advise the public authorities on consumer issues. Moreover, there is still no official administrative body responsible for the interdepartmental coordination of consumer protection policy, as ministries tend to wish to play a leading role and to retain control over certain policy areas, to the detriment of the coherence and clarity of the policies implemented.

60. Lastly, the development of the informal economy is not conducive to the supervision of operators. The legal system currently does not favour but could be strengthened by the introduction of class actions inspired by North American legal culture.⁴⁶ Class actions allow a large number of aggrieved consumers to join together to seek effective compensation for their losses, or to ensure that their complaints are handled properly.

VIII. Recommendations

A. On the legislative and public policy framework

61. Develop the framework policy/strategy on consumer protection, setting out the vision of the consumer protection system that the Government aims to put in place to ensure the well-being of its people, including by:

(a) Streamlining the legislative framework on consumer protection and harmonizing laws in accordance with the pro-consumer principle (interpretation of laws in the consumer's favour);

(b) Extending consumer protection to all sectors of economic activity, including e-commerce, health and transport;

(c) Promoting a culture of consumer protection and strengthening consumer education and information activities using all available media, with a focus on vulnerable and disadvantaged populations, in partnership with consumer associations;

(d) Encouraging the amicable settlement of disputes between operators and consumers, including through conciliation, mediation and arbitration, in partnership with accredited consumer associations;

(e) Improving access to justice for consumers by establishing a legal aid mechanism for consumers that meets the criteria set forth in legislation;

(f) Promoting sustainable consumption patterns, including through consumer education and information, the promotion of good business practices and the suppression of misleading business practices;

(g) Considering the inclusion of consumer protection in the digital strategy of Gabon, in order to ensure effective consumer protection in both online and offline commerce, ensuring that laws adapt to the evolution of markets;

(h) Strengthening personal data protection and cooperation between the Directorate General for Competition, Consumer Protection and Fraud Prevention and the National Commission for the Protection of Personal Data in order to ensure consumers' privacy and the security of their data; and

(i) Putting in place a national financial inclusion strategy with the cooperation of the central bank, the financial services regulator and the Directorate General for Competition,

⁴⁶ Collective defence is undertaken by a consumer association or a non-State organization.

Consumer Protection and Fraud Prevention in order to ensure effective consumer protection in financial services, particularly in respect of access, financial education and remittances.

62. Accelerate the transposition of Directive No. 02/19-UEAC-639-CM-33 of 8 April 2019. Adopt a framework law or act on consumer protection, based on the CEMAC Directive, the United Nations guidelines for consumer protection and international best practices tailored to the economic, cultural and political context of Gabon;

63. Implement Regulation No. 01/20/CEMAC/UMAC/COBAC on the protection of banking products and services consumers in CEMAC (for example, by upholding the right to open an account and the principle of effective access to financial services, and monitoring banks' and financial institutions' correct application of annual percentage rates and their respect for consumers' economic interests in general);

64. Prepare implementing regulations for the future consumer protection act;

65. Publish and disseminate information on the penalties that may be imposed on businesses as a general preventive measure and ensure that laws provide for the indexing of financial penalties so that they are protected from inflation;

66. Make arrangements to enable consumer associations to institute legal proceedings, including class actions.

B. On the institutional framework

67. Designate the government authority to which the Directorate General for Competition, Consumer Protection and Fraud Prevention belongs as the focal point for consumer protection. This authority will be competent for all consumer relations and will coordinate all government action in the field of consumer protection;

68. Establish the administrative bodies envisaged in CEMAC Directive No. 2 of 2019 in order to facilitate dialogue between the State, civil society and the private sector with a view to better protecting the interests of consumers, namely:

(a) A national consumer council;

(b) A consumer safety commission (to consider matters relating to products and private and public services);

(c) An unfair terms commission (including representatives of public authorities, consumer associations and professional associations);

69. Strengthen the framework for interministerial dialogue and coordination, so as to ensure the good coordination and cooperation of authorities with an interest in consumer protection, in particular the Directorate General for Competition, Consumer Protection and Fraud Prevention and the technical regulatory bodies:

(a) Divide responsibilities between the Directorate General for Competition, Consumer Protection and Fraud Prevention, as the body with general competence, and technical bodies with specific competences, such as the Gabonese Standardization Agency, the Gabonese Food Safety Agency, the Regulatory Authority for Electronic Communications and Postal Services and the customs authority, in such a way as to favour the clarity and complementarity of their functions;

(b) Promote cooperation between authorities responsible for consumer protection (for example, through inter-institutional agreements) on information-sharing, public health alerts and regular inspections.

70. Raise awareness among members of the judiciary and build the capacity of judges in respect of consumer protection issues.

71. Support the professionalization of consumer associations, either through the public funding of accredited associations that meet certain objective criteria (funding which is essential for them to provide support, training and information to consumers), the distribution of the proceeds of penalties imposed on operators as a result of proceedings initiated by the

consumer protection body, or the allocation of compensation awarded in the context of actions they have brought for the defence of consumer interests;

72. Promote good business practices (in terms of fair and equitable treatment, commercial behaviour, disclosure and transparency, education and awareness-raising, protection of privacy and consumer complaints and disputes), organize platforms for sectoral consultations with the Directorate General for Competition, Consumer Policy and Fraud Prevention on issues such as the high cost of living, and organize joint awareness-raising and information activities;

73. Strengthen and promote certification and standardization mechanisms;

74. Increase the human and financial resources of the decentralized services of the Directorate General for Competition, Consumer Affairs and Fraud Prevention.

C. On the operational framework

75. Step up efforts to inform the public and increase its awareness of the activities of the Directorate General for Competition, Consumer Affairs and Fraud Prevention, and publicize the results of the Directorate's activities on the Internet and through consumer protection associations and other channels.

76. Increase consumers' awareness of risks to their health and safety, including the risks posed by the abuse of traditional medicines.

77. Build the capacity of law enforcement officers (including officials of the Directorate General for Competition, Consumer Affairs and Fraud Prevention) through training, especially in market surveillance, including at the regional training centre of the Institute of Economics and Finance; and establish partnerships between the Directorate and consumer protection associations or federations, for example by setting up formal consultation mechanisms.

78. Set up and strengthen mechanisms to warn consumers about products that are dangerous or which might not be safe for them to use, in the framework of market surveillance, with the broad cooperation of the customs authorities.

79. Enhance the quality control laboratory of the Directorate General for Competition, Consumer Affairs and Fraud Prevention by integrating a scientific centre devoted to multidisciplinary research in areas related to consumer interests.

80. Foster the participation of the Directorate in African dialogue on consumer protection, increase its engagement with other international mechanisms such as the Safety Gate alert system of the European Union, and strengthen technical partnerships with subregional, regional and international bodies (CEMAC, the United Nations Conference on Trade and Development, the International Organization for Standardization, the International Consumer Protection and Enforcement Network, the European Union, etc.).

81. Consider implementing a regional alert system (with objectives similar to those of the Safety Gate system).

82. Facilitate and strengthen cooperation between and joint monitoring by the Directorate General for Competition, Consumer Affairs and Fraud Prevention and regulatory agencies and other authorities, and avoid duplication in the monitoring and sanctioning of economic operators through inter-institutional coordination.

83. Strengthen cooperation with official statistical bodies in order to better understand the consumption priorities of the Gabonese population.