



Republic of Cameroon

Peace – Work – Fatherland

Audit Bench of the Supreme Court

ANNUAL REPORT 2007

This report was prepared by the Programming and Public Report Committee under the coordination of Mr. **FOUDA NKODO Achille**, Master of the Supreme Court and Messrs **DJOKO André**, **THEUMOUBE Philippe**, Madam **MBARGA Jeanne d'Arc**, Masters of the Supreme Court, Mr. **YEBGA MATIP**, Puisne Judge of the Supreme Court, Mr. **BIAKAN à NGON Jeannot**, Advocate General and Mr. **HAMAN Dieudonné**, Registrar as members.

The Proofreading of the draft report was done by a Committee headed by Mr. **BELIBI Joseph**, Senior Advocate General and composed of Messrs **MOUTCHIA AMBE George**, **MBENOUN Théodore**, Mrs **WACKA Justine**, Division President, Messrs **MANGA MOUKOURI**, **HAKAPOKA Narcisse**, **FOUDA AMOMBO**, **FOUDA NKODO Achille** **DJOKO André**, Masters of the Supreme Court, as well as Mr **PAGUEM Michel**, Registrar-in-Chief.

This final report was adopted in Chambers on Thursday 08 July, 2008

RULING

In accordance with the provisions of Order No. *002/CDC/JCSC* of 20 February 2006 by the President of the Audit Bench to lay down the matters to be examined by the various Divisions of the jurisdiction, the Audit Bench, sitting in Chambers, adopted this report established in application of section 3 of Law No. 2003/005 of 21 April 2003. The following were present:

- **Mr. Abraham TCHUENTE, President**

.....
.....

FOREWORD

“All men have the right to ascertain by themselves or through their representatives the need for public contributions, to freely consent to it, to follow up its use and to determine the proportion, the base, the collection and duration”

***Article XIV of the 1789 Declaration of Human Rights and of the Citizen
(France).***

For the second consecutive year, the Audit Bench of the Supreme Court is publishing its annual report in conformity with section 3 of the law of 21 April 2003¹

This second report includes a general account of activities of the Bench in which there are the studies aspect on the one hand and that of recommendations on the other hand.

The resulting analysis contributes in the drawing up of general conclusions, which will help in having an in-depth look of the financial management of the State and its sub-divisions which are public administrative establishments and public and semi-public enterprises. Notably:

- The identification of irregularities noted during the control of accounts will ensure a better orientation of these accounts in the future;
- A critical look at the annual general balances of accounts of various financial institutions of the State, will bring out incoherencies which will enable accountants to better apply the generally admitted accounting principles;
- Disparities relating to the data in figures contained in the annual general balances of accounts of principal Treasury accountants on the one hand and those in the settlement law on the other hand. This raises the issue of the reliability of the latter;

¹ Law No. 2003/005 of 21 April 2003 on the jurisdiction, organization and functioning of the Audit Bench of the Supreme Court

- Certain recommendations made in the 2006 Annual Report were favourably received by the bodies concerned.

New recommendations tend towards a better reading of the management of public finances. This is the case with that relating to the preparation of a general account of the finance administration which will help in having a summary document of the entire management of principal Treasury accountants.

It is the wish that the dissemination of the information contained in this Annual Report helps in arousing reflection on the improvement of the work of public accountants, also that public authorities organize better financial governance and that the confidence of the citizen is established in the work of the Audit Bench.

Alexis DIPANDA MOUELLE
Chief Justice of the Supreme Court

INTRODUCTION

In 2006, the Audit Bench of the Supreme Court devoted a major part of its activities to the continuation of the training of judges and registrars as well as the creation of awareness of public accountants in the production of quality management accounts.

For the 2007 financial year, the activities of the Bench were within the framework of reinforcing the option taken during the preceding financial year; but beyond that, in starting of the control and ruling on accounts through the adoption of an annual programme.

In this regard, the choice was done for an exhaustive control of accounts which aims at the examination of all the supporting documents in a way to come out with a catalogue of irregularities. This choice ensures the orientation of audits in the short term, an audit within the framework of partial or selective control in the future.

Equally, the classification of accounts-producing structures according to the criterion of the financial volume will help in instituting a control of annual, triennial or quadrennial accounts, as the case may be.

For this first year of control and ruling on accounts, the 2007 annual report informs its addressees especially on the evolution of the production of accounts, as well as the scope and type of irregularities raised. Drawing from the experience of this year, the Audit Bench should be able to improve its services during the subsequent controls by reviewing its work methods.

At a time when this second report is being published, there is need to mention the advisory skills of the Audit Bench. In effect, according to the terms of the section 39(c) of Law No. 2006/016 of 29 December 2006 to lay down the organization and functioning of the Supreme Court, the Audit Bench is

competent to give its opinion on draft settlement laws presented to Parliament. The execution of this advisory mission requires technical know-how by judges on the issue. Consequently, the Audit Bench should increase the professionalism of its personnel by pursuing the continuing education of the said personnel.

This annual report gives a general account of the result of the work of the financial jurisdiction through a sub division into four parts namely:

- 1. The activities of the Audit Bench during the 2007 Financial Year;***
- 2. The specific study done by the Bench;***
- 3. An overview of the State's accounts;***
- 4. Recommendations.***

PART ONE



ACTIVITIES OF THE AUDIT BENCH

1.1 JURISDICTIONAL ACTIVITIES OF THE AUDIT BENCH

The control and ruling on accounts make the Audit bench an institution whose competence is essentially jurisdictional. To this effect, it is useful to make a census of bodies whose accounts are subject to control by the Bench (1), to analyse the evolution of the production of accounts from 2004 to 2006 (2) to evaluate the execution of the verification programme of 2007 (3) and lastly to raise the anomalies and irregularities observed during examination (4).

1.1.1 BODIES SUBJECT TO THE CONTROL OF THE AUDIT BENCH

In application of the provisions of section 41 of the Constitution and sections 2(1) and 8 of Law No. 2003/005 of 21 April 2003 laying down the jurisdiction, organization and functioning of the Audit Bench of the Supreme Court, the competence of the Bench extends to 483 structures in 2007, that is six structures more than in 2006 which had 477 structures.

These bodies which must submit their accounts for control by the Audit Bench are distributed as follows:

TABLE 1: ACCOUNTS EXPECTED AS AT 31/12/2007.

Division	Accounts expected by Financial year			Total of accounts expected
	2004	2005	2006	
First Division	13	13	13	39
Second Division	339	339	339	1017
Third Division	72	72	77 ²	221
Fourth Division	53	53	54	160
Total	477	477	483	1437

Generally, 1,437 accounts were expected at the Audit Bench as at 31 December 2007.

² Of the 77 accounts expected in the Third Division, accounts of Public Administrative Establishments and similar accounts which notably include the accounts of administrative structures and those of Earmarked Accounts should be counted.

The structures whose accounts are eligible for the control and ruling of the Audit Bench did not change between 2004 and 2006 as far as the First and Second Divisions are concerned.

Thus, for the First Division which controls State accounts, the Bench remains competent to examine the accounts of 13 structures including:

- Office of the Paymaster General.....01
- ACCT 01
- Provincial Treasuries 11

These 13 structures are the consolidation of the accounts of 471 treasury stations distributed as follows:

Paymaster General of the Treasury	37
Central Accounting Office of the Treasury....	2
Adamawa.....	23
Centre.....	92
East.....	37
Far-North	52
Littoral.....	26
North Littoral	19
North	26
North-West	40
West.....	51
South.....	30
South West.....	36
TOTAL	471

As for the Second Division competent to control and rule on local and regional authorities, the number of structures is still 339. These local and regional authorities are distributed as follows:

- City Councils 02
- Special status Urban Councils 09
- Sub-divisional Councils 11
- Urban Councils 11
- Rural Councils306

This figure does not take into account the councils that were newly created in April 2007. In fact, these new structures can only send accounts to the Bench in 2008.

Here again, the Bench does not claim to have counted all the structures for which it is competent. In effect, certain local authorities have majority shares in public sector undertakings. They include the Douala City Council with the Sawa Beach Consortium, the Douala Development Corporation and the CUD Finances. The accounts of these undertakings are supposed to be examined by the Audit Bench.

The Third Division specialized in the control and ruling of accounts of Public Administrative Establishments, saw its competence extend to 77 structures instead of the 72 in 2006. In effect, the Third Division lost one structure as a result of the arbitration of the Bench which henceforth gives the Autonomous Sinking Fund (CAA) to the Fourth Division. Equally, the Third Division got five other bodies: the National Agency for New Information and Communication Technology (ANTIC), the National Free Trade Zones Authority, the Kribi Autonomous Port and the Limbe Autonomous Port.

This annual change means that the Bench does not yet have a mastery of the number of structures subject to the control of the Third Division.

In fact, there are several projects, programmes and committees which by their legal status are administrations with a mission or structures with Earmarked Accounts. The control of the accounts of these structures is within the ambit of

the Bench. Several of these structures are among the 77 of the Third Division. It is a question of eventually identifying them in order to distinguish them from public administrative establishments proper.

This is the case with the National Agency for Financial Investigation (ANIF) or the Special Forestry Development Fund (FSDF).

The Fourth Division whose competence has to do with public and semi-public undertakings had only one structure added to it, the Autonomous Sinking Fund (CAA). However, in view of section 8 of the organic law of 2003, this Division is far from accounting for all the structures within its ambit. In effect, certain entities described in this section 8 remain unknown. They especially include:

- Corporate persons benefitting or collecting obligatory deductions such as those of social insurance or vocational training;
- Corporate persons exploiting a public service or a State monopoly;
- Corporate persons benefitting from direct or indirect financial help from the State;
- Natural persons exercising official functions or corporate persons invested with a specific mission and receiving in this regard the fruits of national or international generosity.

Bodies subject to the control of the Audit Bench are not known with exactitude in any of the Divisions except in the First Division. The Bench should institute meetings with the Ministries of Finance and Territorial Administration and Decentralisation as well as with all the ministries to count and mark out the structures whose accounts must, as per the law, be submitted to the Audit Bench for control.

1.1.2 EVOLUTION OF THE PRODUCTION OF ACCOUNTS FROM 2004 TO 2006

As at 31 December 2007, 1,437 accounts were expected to be produced at the Audit Bench in accordance with section 26(2) of the organic law of 2003. Among these accounts, 477 are from the 2004 Financial Year, 477 from the 2005 financial year and 483 from 2006.

The table below illustrates the production of the said accounts as at this date.

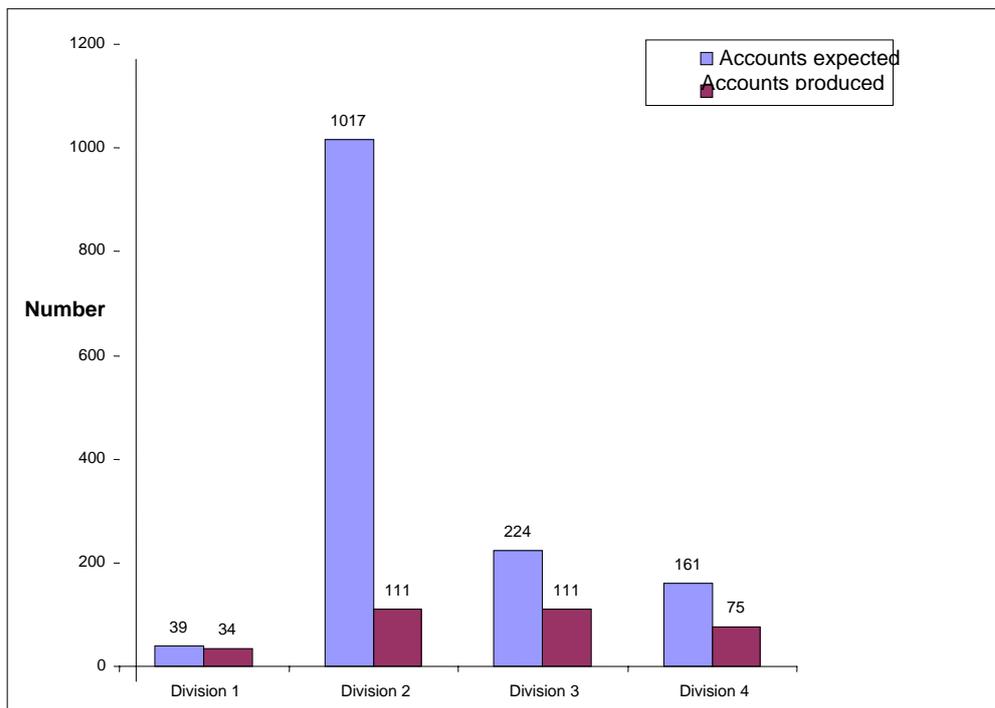
TABLE 2: PRODUCTION OF ACCOUNTS AS AT 31/12/2007

Division	2004			2005			2006			Total expected accounts	Total accounts produced
	E ³	P	NP	A	P	NP	A	P	NP		
1	13	12	01	13	13	00	13	09	04	39	34
2	339	67	272	339	40	299	339	04	335	1017	111
3	72	42	30	72	42	30	76	27	49	224	111
4	53	37	16	53	27	26	55	11	44	161	75
Total	477	158	319	477	122	355	483	51	432	1437	331

Thus, out of the 1,437 accounts expected at the Audit Bench as at 31 December 2007, 331 were effectively produced, that is a rate of 23.03%. This percentage of accounts produced is respectively 87.17 for the First Division, 10.91% for the Second Division, 49.55% for the Third Division and lastly 46.58% for the Fourth Division.

The following graph illustrates the evolution of accounts produced in relation to accounts expected for the 2004 to 2006 financial years.

³ E=Expected accounts ; P=Accounts produced ; NP =Accounts not produced



Situation of accounts produced as at 31 December 2007

This graph reveals that the problem of the production of management accounts does not arise for structures under the First Division. However, the quality of these accounts leaves a lot to be desired. In fact, the instruction on the production of management accounts signed on 21 October 2005 by the Minister of Finance was the subject of wide dissemination among State accountants who were henceforth aware of the production of accounts. Moreover, the relatively low number of structures under the First Division helped in their mastery by the Audit Bench. What remains is resolving the thorny problem of the reliability of accounts produced, which problem is a concern common to all the Divisions.

The production of accounts of the Second Division, responsible for local and regional authorities is a real concern for the Bench. In effect, the joint instruction No. 000366/IC/CNIL/MINATD/MINEFI of 15 February 2006 relating to the application of Decree No. 98/266PM of 21 August 1998 to approve the local authority accounting standard and the adoption of the local

authority budget nomenclature is not sufficiently mastered by Council Revenue Collectors. For some it is a problem linked to training; for others, especially those who are equally sub-treasurers, it is a lack of will which leads them to give priority to treasury operations to the detriment of those of the local authority. Finally, the responsibility of the supervisory authority is not to be overlooked in the delay in approving the administrative and management accounts.

The production of accounts is at a level slightly below average for structures under the Third Division (49.55%) and those of the Fourth Division (46.58%). Accounting Officers in public administrative establishments are at least of the rank of Treasury Controller which predisposes them for a good understanding of the financial and accounting operations of their structures.

The situation of the production of accounts at the Fourth Division is different according to whether it is a corporation with public capital or a semi-public corporation. For the public corporation, the production of accounts does not pose a particular problem.

1.1.3 2007 ANNUAL PROGRAMME OF THE AUDIT BENCH

The annual programming of work in the Audit Bench is provided for by section 40 of Law No. 2006/016 of 29 December 2006 to lay down the organization and functioning of the Supreme Court. It is to meet two major needs:

- The affirmation of the independence of the Audit Bench in seizing structures for which it is competent;
- The planning in time of the examination of accounts in order to control and rule on them within reasonable deadlines.

In practice, the programme is proposed by Divisions, put together and in form by the Report and Programming Committee. It is then discussed and adopted in Chamber after the opinion of the Legal Department.

The Audit Bench masters the process of the preparation and adoption of its annual programme. It is necessary to examine how this programme was

executed in 2007, the financial size of structures controlled and lastly the various procedural decisions taken on accounts entered in the programme.

1.1.3.1 Execution of the 2007 annual programme of the Audit Bench

In all the Divisions, the examination of the accounts of 2004 and 2005 was retained in the 2007 programming. The main criterion of choice was preparing the accounts for examination. The verification methodology was exhaustiveness, that is, the examination of all the supporting documents of income and expenditure.

TABLE 3: ACCOUNTS PROGRAMMED IN 2007⁴

	Expected accounts of 2004	Expected accounts of 2005	Total accounts expected in 2007	Accounts programmed in 2007	% in relation to total accounts expected in 2007
Division 1	13	13	26	24	92.3
Division 2	339	339	678	28	4.12
Division 3	72	72	144	64	44.44
Division 4	53	53	106	28	26.41
Total	477	477	954	144	15.09

During the 2007 financial year, of the 954 accounts expected for the 2004 and 2005 financial years, 144 accounts were programmed including 24 for the First Division, 28 for the Second Division, 64 for the Third Division and 28 for the Fourth Division. Since programming is linked to accounts ready for examination, it turns out that these figures represent, for each Division, the percentage of accounts ready for examination.

⁴ It should be noted that when an account has been programmed for N financial year and it has not been the subject of a final ruling or a final observation report during this financial year, the same account is programmed for the following financial year.

1.1.3.2 Financial size of accounts

The table below gives the financial dimension of accounts under examination in relative value and compares it to the total financial size of the structures for which the Bench is competent.

TABLE 4: FINANCIAL⁵ SIZE OF ACCOUNTS UNDER EXAMINATION

Division	Accounts under examination	Financial dimension of accounts under examination (1)	Financial dimension of structures of the sector (2)	% of (1)/ (2)
First Division	25	2,721,376,057,732	2,994,316,094,446	90,88
Second Division	29	29,968,056,383	574,283,167,815	5,21
Third Division	671	84,069,560,981	295,211,639,285	28,47
Fourth Division	39	539,873,233,482	9,440,518,052,599	5,71
Total	164	3,375,286,908,578	13,304,328,954,145	25,36

This table reveals that accounts under examination represent about 25.36% of the financial size of all the structures for which the Audit Bench is competent. This percentage is 90.88% for the First Division, 5.21% for the Second Division, 28.47% for the Third Division and lastly 5.71% for the Fourth Division.

1.1.3.2 Examination of decisions taken

TABLE 5: ACCOUNTS UNDER EXAMINATION

Divisions	Accounts under examination		
	2004	2005	2006
First Division	12	13	00
Second Division	18	11	00
Third Division	35	34	02
Fourth Division	23	15	01
Total	88	73	03

⁵ The financial size expressed in CFA francs is understood according to the income and expenditure effectively executed for the First, Second and Third Divisions. As for the Fourth Division, it is the turnover which is considered.

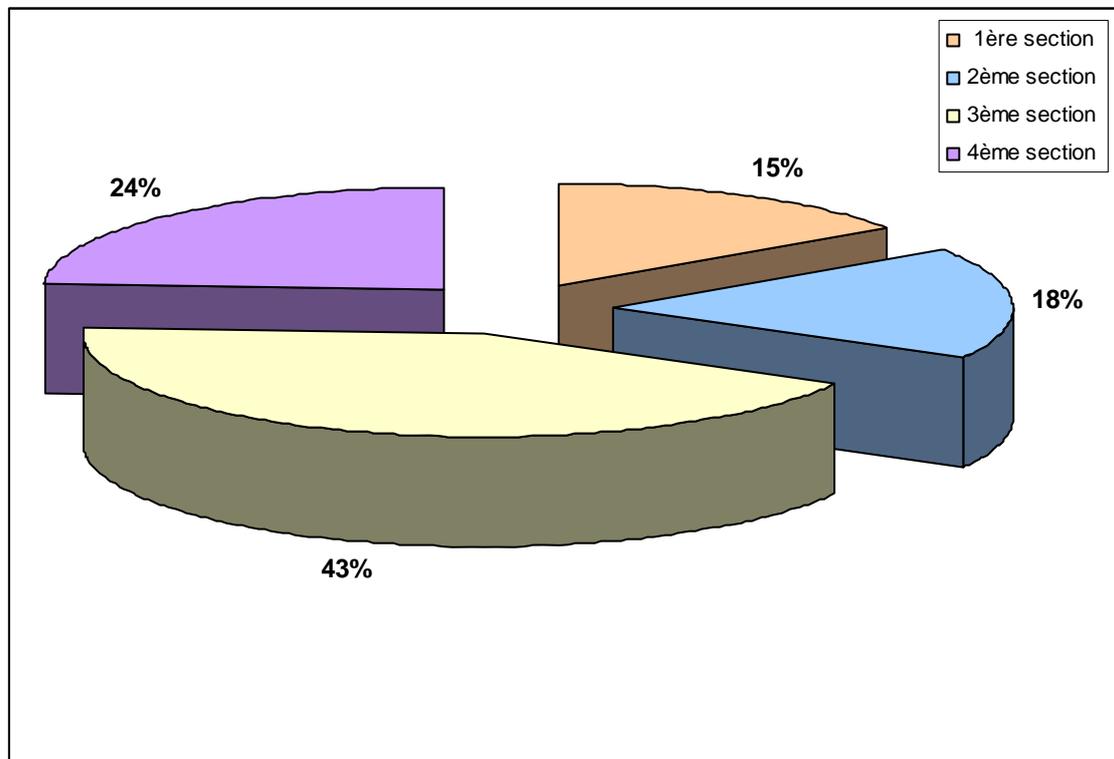
As at 31 December 2007, 164 accounts were under examination including 88 for the 2004 financial year, 73 for 2005 and 03 for 2006.

When this number is compared with that of programmed accounts in 2007 which were 144, there is a difference of 20 accounts. In effect, 20 unprogrammed accounts were under examination as at 31 December 2007. That was the will of the Bench in a bid to advance the examination in the structures whose accounts were meanwhile ready for examination.

The 164 accounts under examination are divided as follows:

- First Division: 15% of the total, that is 25 accounts;
- Second Division: 17.68% of the total, that is, 29 accounts;
- Third Division: 43.30% of the total, that is, 71 accounts;
- Fourth Division: 23.78% of the total, that is, 39 accounts.

The pie chart below fully illustrates this distribution:

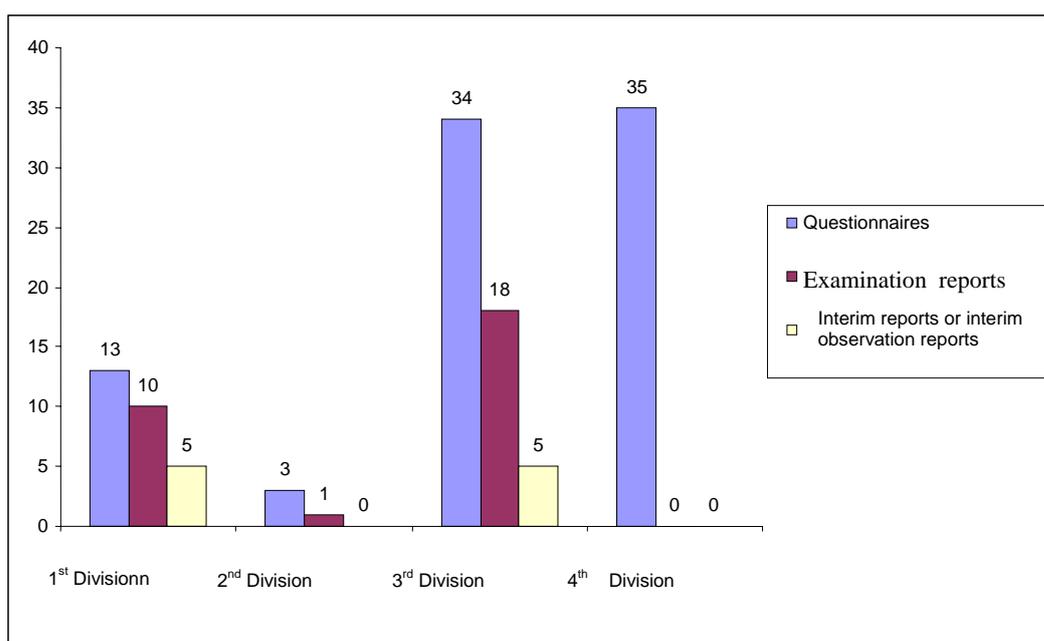


During the 2007 financial year, Rapporteur Judges sent 85 questionnaires to accountants under all Divisions. After the responses sent in by the said accountants, the Rapporteurs prepared 29 examination reports including 10 which gave rise to conclusions by the Legal Department. Ten (10) interim rulings were rendered by the Bench during 2007. These interim rulings were notified to the accountants concerned. Their responses will enable the Bench to continue its work in 2008, either through other interim rulings if the situation is not completely clarified or by final rulings if the Bench thinks it is sufficiently enlightened on the account. These examination decision as well as the rulings given are summarized in the table below.

TABLE 6: EXAMINATION OF DECISIONS TAKEN AND RULINGS RENDERED

Divisions	Questionnaires	Examination reports	Preliminary reports or preliminary observation reports
First Division	13	10	05
Second Division	03	01	00
Third Division	34	18	05
Fourth Division	35	00	00
TOTAL	85	29	10

The following graph illustrates the examination decisions taken by Division.



1.1.4 IRREGULARITIES AND ABNORMALITIES FOUND IN THE ACCOUNTS

The examination of the accounts of certified public accountants and those of public and semi-public sector enterprises reveals many irregularities. These irregularities are linked especially to public procurement, personnel travel, public contracts, advantages served in public administrative establishments, the disposition of funds, and formats of funds and abnormal balances of certain accounts on the trial balance of accounts.

A number of these irregularities are common to all the accounts controlled while some others are specific only to some accounts.

1.1.4.1 Irregularities common to all controlled accounts

After controlling all Treasury accounts, those of public administrative establishments and of local and regional authorities, common and recurrent irregularities appear mainly in the travel of personnel, public contracts, public procurement and the keeping of the cashbook.

1.1.4.1.1 Irregularities found in the management of travel

In Cameroon personnel travels are governed by Decree No. 200/693PM of 13 September 2000 which lays down the scheme with regard to civilian public employees and the conditions for managing the related costs.

This decree provides that to benefit from the advantages linked to travel, there must be a mission order either signed by the line superior or the reason for the mission is unambiguous. It stipulates in addition that the sheets of the said travels are signed on departure, on arrival and on return by the persons empowered to do so (line superior, specialized finance controller, etc.).

Lastly, this decree fixes the various daily rates in case of clearance of mission allowances.

But the accounts controlled by the Bench for 2007 accounts have a lot of anomalies with regard to travel. These anomalies are linked to mission orders, mission warrants and the daily rates applied.

- **Irregularities linked to mission orders**

The mission orders found in the controlled accounts are signed for the most part by persons not authorized to do so and having no delegation of signature to this effect (Director of administration and finance, Secretary General of a council, Head of the finance bureau, etc.)

Moreover, the reasons for the mission are not explicit. A number of these mission orders have no departure and return dates, thereby making it very difficult for counting with exactitude the number of days of the mission.

- **Irregularities found in the mission warrants**

The mission sheets extracted from the bundles of supporting documents are often not endorsed on departure, at arrival and on return from the mission. Even when it is the case, it is often the endorsements of subordinates that are found.

Moreover, these mission warrants are paid without clearance at the place provided for to this effect; the amount of the expenditure being almost a lump sum granted by the vote holder.

- **Irregularities in the daily rate applied**

Decree No. 2000/693/PM of 13 September 2000 referred to above provides for daily rates for the mission allowances depending on the groups of personnel and types of mission.

An examination of cleared mission warrants in the controlled accounts shows that the rates applied are imaginary and to an extent arbitrary. That is how some support staff benefit from a daily mission allowance of a sub-director while at the same time in public administrative establishments and local and regional authorities, the Board of Directors and local authority sessions fix exorbitant rates without any relation to

those provided for in Decree No. 2000/693/PM of 13 September 2000 referred to above.

1.1.4.1.2 Irregularities found in public contracts

Decree No. 2004/275 of 24 September 2004 to institute the Public Contracts Code gives all the directives in issues of the award, execution and payment of public contracts.

Article 4(2) of this decree provides that the public contracts procedure does not apply to services below five million CFA francs.

The execution of public orders of an amount above five million CFA francs faced a lot of irregularities due to the splitting of contracts, award of contracts through mutual agreement without the prior approval of the Public Contracts Authority, payment of unregistered jobbing orders and the absence of final acceptance minutes in the payment of final bonds.

- **Splitting of public contracts**

The examination of accounts submitted for the control of the Bench revealed that split public contracts of more than eight hundred and sixteen million, twenty thousand, three hundred and sixty six (816,020,366) CFA francs were paid. These splits had as objective to circumvent the procedure of call to tender and avoid fair competition among the various bidders.

- **Contracts awarded through mutual agreement without the prior authorization of the Public Contracts Authority**

Controls of accounts in 2007 revealed that a contract to the tune of sixty one million, six hundred and sixty three thousand, sixty seven (61,663,067) CFA francs awarded by mutual agreement was paid even

though the prior authorization of the Public Contracts Authority had not been delivered. This irregularity which also has to do with management vitiates competition and raises suspicion of the collusion of the vote holder with the accountant.

- **Unregistered jobbing orders**

In the bundle of supporting documents, the various controls revealed copies of unregistered, unstamped and unsigned jobbing orders. This non registration of jobbing orders deprived the State of revenue of more than forty five million (45,000,000) CFA francs.

- **Absence of minutes of final acceptance**

An examination of the supporting documents linked to the return of final bonds revealed that many accountants do not ask for the minutes of final acceptance and the attestation of release when they want to release the final bond. The absence of these two documents attests that the structure has not been finally accepted and that the final bond is still valid. More than thirty five million (35,000,000) CFA francs was unduly paid out of the public treasury and there is the high risk that these structures will not be accepted.

1.1.4.1.3 Irregularities in public procurement

At the beginning of each financial year the Minister in charge of Finance signs a circular relating to the execution and control of the execution of the State budget and its subsidized bodies.

This circular recalls the legal and statutory provisions to be observed for a proper execution of the year's budget.

Controls done by the Audit Bench revealed irregularities in bills by suppliers, budget heads and bundles of supporting documents of expenditure which attest of the ignorance of the prescriptions contained in the circular referred to above.

- **Irregularities discovered on bills**

In accordance with the legal provisions contained in the circular mentioned above, all final bills must be cleared by the vote holder and managed by the stores accountant. These bills must equally be stamped and dated by the suppliers for those bills above or equal to twenty five thousand (25,000) CFA francs.

But many of these bills not bearing any of the comments referred to above were found in bundles of supporting documents of expenditure, despite the effective and complete payment of the payment vouchers that were included. In this case, the probative value of such documents being contestable, it is up to the Bench to carry out necessary investigations in application of the provisions of section 27(2) and (5) of the law of 21 April 2003.

- **Charging on inappropriate budget heads**

The harmonious execution of the budget requires that the vote holder respect the voted budgetary heads.

In the majority of accounts controlled, it was noticed that travels were irregularly paid from the head of running of the office or from that of fuels and lubricants, without there being a transfer of credits as provided for by the regulation in force. This abnormality cost the public treasury more than seventy million (70,000,000) CFA francs.

- **Composition of bundles of supporting documents**

The laws and regulations provide for a number of documents to be attached to the payment order.

For most expenditure on materials controlled by the Audit Bench in 2007, there was a noticeable absence of the administrative files of service providers, duly registered administrative purchase order, delivery slip and minutes of acceptance for the services of more than two hundred thousand francs.

It should be recalled that all these documents are demanded for the accounting regularity of each budgetary expenditure operation, as support to duly cleared and paid bills.

1.1.4.1.4 Irregularities in the keeping of cash

The various controls carried out reveal that the keeping of cash does not follow the prescriptions of the instruments in force.

In effect, the examination of the accounts reveals the existence of non regulatory cash values, the absence of receipt in full discharge on payment vouchers and the payment in cash of large amounts.

- **Non regulatory cash values**

The only cash values accepted by regulation are those constituted of written authorizations from the Ministry of Finance granting the disbursement of funds.

However, the public cash offices controlled in 2007 had much expenditure paid without payment vouchers and made up essentially of “bills”, “disbursement vouchers”, “purchase vouchers” and “discharge vouchers” issued by the authorizing officer or the accountant. These documents are abnormally kept at the cash office while waiting for their possible regularization but are in effect cash values.

This situation does not enable the authorizing officer and even the accountant to programme any expenditure since the real amount of the cash in hand is not known. That is how cash values of the sum of nine hundred and thirty eight million, six hundred and thirty seven thousand, four hundred and fifty four (938,638,454) CFA francs were discovered in all the accounts controlled.

- **Payment in absence of receipt in full discharge**

To be accepted as having been paid, a payment voucher must be signed and must bear the finger prints of the beneficiary. References of a valid National Identity Card or those of a passport must be entered in the space provided to this effect.

This equally applies to references of bank transfers which must be written on the voucher in case of payment by a bank.

An examination of the accounts controlled reveals that payment vouchers of more than seven hundred million (700,000,000) CFA francs were paid out in this manner without receipt in full discharge and without any reference of payment by bank transfer.

- **Payments in cash of large amounts**

Section 225 of the Ordinance No. 62/OF/4 of 7 February 1962 on the financial regime of the State states: “any expenditure above one hundred thousand (100,000) CFA francs shall obligatorily be paid by bank transfer”.

In all the accounts controlled, almost 30% of the vouchers of amounts above one hundred thousand (100,000) CFA francs were paid in cash. That is how it was discovered that vouchers of this nature of an amount of more than one billion five hundred million (1,500,000,000) CFA francs were paid in cash by accountants. In certain cases, these payments in cash concern claims paid by corporate persons to natural persons without any voucher.

1.1.4.2 Irregularities specific to certain accounts

In 2007 the Audit Bench discovered irregularities specific to Treasury accounts, accounts of public administrative establishments, local and regional authorities and public and semi-public sector enterprises.

1.1.4.2.1 Irregularities in treasury accounts

In addition to the irregularities common to all accounts signaled above, several anomalies were observed in the Treasury accounts of principal treasury accountants: they include notably the abnormal balances of certain accounts in the trial balance of accounts, debits and other non regularized cash deficits.

- **Abnormal balances of certain accounts**

The exploitation of the trial balance of Treasury accounts reveals abnormalities in the financial accounts of local councils (1°) and unpaid cheques rejected during clearing (2°).

1°) Debit balances of financial accounts of local councils

An examination of the Trial Balance produced by Provincial Treasurers reveals the existence of abnormal debit balances of the financial accounts of local councils (421). This means that the public treasury granted cash advances to the said local councils to cover their expenses; their collections being lower than their effectively paid expenditures. This anomaly in the long run leads to a deficit in the management accounts. That is how eighty three million, one hundred and forty eight thousand, eight hundred and eighty seven (83,148,887) CFA francs was paid above the real assets of the councils concerned.

2°) Unpaid cheques, rejected during clearing

From the various controls it emerges that more than two billion CFA francs worth of unpaid cheques and those rejected during clearing are still lying in accounting stations all over the Republic, depriving the State of an important amount of revenue through the faults of accountants who could have started the procedure to regularize them as provided for by the instruments in force.

- **Debits of accountants and cash deficits**

An examination of the various accounts revealed that debits and deficits still feature on the trial balances and in the minutes of verification of cash stations.

Thus, there are abnormal situations of an amount of two hundred and ninety four million six hundred and fifty eight thousand seven hundred and ninety five (297,658,795) CFA francs resulting from unsettled debits and deficits featuring on the balances of Treasury accounts.

1.1.4.2.2 Irregularities in the accounts of public administrative establishments

Numerous irregularities, often recurrent, were observed in the accounts of public administrative establishments relating especially to remuneration and benefits granted the Board members and other officials, the provision of funds and format of accounts.

- **Benefits granted Board members and other officials of public administrative establishments**

1°) Benefits granted Board members

Section 66 of Law No. 99/016 of 22 December 1999 on the General Rules and Regulations governing public establishments and public and semi-public undertakings stipulates:

- (1) The duty of board member shall be honorary. However, board members may be paid sitting allowances and may be reimbursed any expenses incurred during the sessions upon presentation of supporting documents.
- (2) The board chairman shall receive a monthly allowance.
- (3) The rate of the sitting allowance as well as the monthly allowance of the chairman shall be fixed by the board of directors within the ceilings set by the regulations in force.

Meanwhile, in the controlled accounts of public establishments, board members benefitted from monthly allowances for fuel, telephone, entertainment and bonuses for working sessions in addition to the sitting allowances which they regularly receive after each board of directors meeting. Most of these benefits if granted by the Board of Directors are not based on any legal instrument.

2°) Benefits granted to the Chairperson of the Board, General Manager and Deputy General Manager

Contrary to the provisions of Law No. 99/016 of 22 December 1999 referred to above, these senior officials of public administrative establishments grant themselves exorbitant benefits not provided for in the applicable instruments on the matter. These include entertainment allowances, working session allowances and kitchen allowances in addition to the maintenance of their residences.

It should also be noted that these allowances and bonuses are granted by the board of directors at exorbitant rates and without any relation with those provided for in Decree No. 87/1141 of 20 August 1987 fixing the remunerations and benefits of personnel of public administrative establishments and semi-public corporations.

3°) Benefits granted to personnel

The various circulars by the Minister in charge of Finance relating to the execution and control of the execution of the State budget and those of subsidised bodies specify that finance officials (Finance Controller, Accounting Officer and Stores Accountant) appointed to public administrative establishments depend on the Ministry of Finance and should never be considered as being on secondment. It should in this regard be recalled that the functioning of these services as well as their remuneration is borne by the Ministry of Finance.

Upon examination of these controlled accounts, it is noticed that these officials benefit from large advantages (housing allowance, compensatory allowances, per diem, entertainment allowances and mission allowances) granted by the General Manager without foundation and generally on the basis of the resolution of the Board of Directors which violate the law on the issue.

- **Provisions of funds**

Despite the renewed ban each year in the circular relating to the instruction on the execution and control of the State budget and those of bodies subsidised by the Ministry in charge of Finance, many General Managers continue to put at the disposal of some collaborators enormous sums of money through “disbursement decisions”, “purchase orders” or simply “letters of disbursement”.

That is how more than three hundred million (300, 000,000) CFA francs was put at the disposal of collaborators for expenditure whose supporting documents as well as the accounts of use of the funds are still expected in most cases.

- **Format of accounts**

The ministerial instruction of 21 October 2005 on the principles and presentation, production and transmission modalities of management accounts largely describes the formats for accounts (accounts in figures and accounts on documents).

This is the same with instruction No. 02070/MINEFI/IGT of 22 December 1998 relating to the summary nomenclature of accounts destined for accounting officers of public administrative establishments.

But we noticed that the accounts produced by these accounting officers do not include trial balances of balanced accounts, do not contain the state of development of budgetary income and even more so the situation of cash accounts, all things which render difficult, even impossible, the fixing of

account line and the evaluation of efforts of the accountant in matters of collection of income and the execution of expenditure.

1.1.4.2.3 Irregularities in accounts of local and regional authorities

Local and regional authorities still have to forward their accounts to the Audit Bench despite reminders and awareness seminars organised to this effect.

The examination of some accounts revealed certain irregularities specific to local authorities, such as the format of accounts, the execution of budgets and the keeping of open accounts in commercial banks.

- **Format of accounts**

Despite the provisions of decree No. 98/266/PM of 21 August 1998 on the approval of the Sectoral Accounting Standard for Local Authorities and adoption of the council budgetary nomenclature and its enabling instruction No. 00366/C/CNIL/MINAD/MINEFI of 15 February 2006, Council Revenue Collectors for the most part do not know the format for presentation of management accounts to be sent to the Audit Bench. The notion of trial balance of accounts, the general ledger, balance sheet and annual summary statements are almost foreign to them and difficult to assimilate. That is why for the accounts of 2004 and 2005, each Council Revenue Collector did their thing as they thought and understood. The accounts produced look like a mass of documents presented in an indescribable disorder.

- **Execution of the budget**

Be they revenue or expenditure, the legal and regulatory provisions were not respected.

1°) Execution of revenue

An examination of the revenue documents indicates that collection orders in support of any collection were desperately absent in almost all the accounts and particularly in the major revenues such as the council additional centimes.

Moreover, even when these collection orders exist, they are signed after the event, that is in regularization.

2°) Execution of expenditure

Regulation in matters of execution of expenditure was completely ignored. That is why in the bundles of supporting documents, one notices payment vouchers accompanied only by hand-delivered messages, letters of association as well as the recommendations of mayors.

To complete this dark tableau, several payment vouchers paid were not accompanied by any supporting document of expenditure.

3°) Keeping bank Accounts

The obligation imposed on local authorities by the Local Council Support Fund (FEICOM) to open an account in a local commercial bank in order to receive the additional centimes raises the problem of the joint management of the account by the mayor and the Council Revenue Collector as well as the inclusion of this category of revenue in the Revenue Collector's council accounting.

In effect, these revenues are used most of the time while the related collection orders do not exist.

Moreover, the bank income and expenditure are often not understood in the appropriate supporting accounting documents. The notion of banking concordance or banking receipts not established or even that of bank ledger being unknown to Council Revenue Collectors.

1.1.4.2.4 Irregularities in the accounts of public and semi-public sector enterprises

Here, making available funds to collaborators of the General Manager and the poor management of travel by personnel were frequent and recurrent. But where the problem becomes delicate is the management of board meetings and the behaviour of auditors.

- **Board meetings**

An examination of the accounts of public and semi-public enterprises reveals that many administrations do not send representatives to board meetings and even to the general assembly of the structure.

In the same vein, it was remarked that the mandates of some board members were almost indefinitely renewed despite the provisions of section 36(2) of Law No 99/016 of 22 December 1999 relating to the General Rules and Regulations of public administrative establishments and public and semi-public enterprises which states: *“members of the board of directors shall be appointed by the general assembly of shareholders for a mandate of three years renewable*

once". This equally applies to general managers and deputy general managers who are occupying the positions since ten (10) years despite the provisions of section 47 of Law No. 99/019 of 22 December 1999 referred to above which states that the general manager and deputy general manager shall be appointed "*for a three-year term renewable twice*".

- **Auditors**

The observation that can be made after examining accounts is that article 880 of the OHADA Uniform Act of 17 April 1997 relating to commercial companies and economic interest group is violated by a majority of the structures controlled, since auditors who have to be appointed for six financial years rarely spend more than two years in same enterprise.

Moreover, it was also noticed that certain auditors perform work in the enterprise in violation of section 13 of Law No. 99/016 of 22 December 1999 and article 697 of the OHADA Uniform Act mentioned above which prohibit auditors from performing a paid function within an enterprise where they audit the accounts.

1.2 OTHER ACTIVITIES OF THE AUDIT BENCH

The jurisdictional activity described above was carried out concomitantly with the other missions linked to the functioning of the Bench.

In 2007 these activities situated upstream the decision of justice, has to do with internal organization, capacity building of all the actors in the chain of production and ruling on accounts, the Bench's relations with other State structures and those of other countries.

1.2.1 INTERNAL ORGANIZATION OF THE AUDIT BENCH

2006 ended with an important stock of accounts undistributed to judges. The material management of financial statements became heavier, the exploitation of the supporting documents made difficult by their sheer number and above all by their volume.

To resolve this problem, the Chief Justice of the Supreme Court completed the putting in place of the Second Division while the President of the Bench rationalised the organization of the Registry.

1.2.1.1 Designation of the President of the Second Division

Contrary to other Divisions of the Bench, the Division in charge of the control and ruling on the accounts of local and regional authorities had not yet had a head. The President of the Bench assumed these functions up till 7 March 2007 date on which in application of section 26(2) of Law No. 2006/016 of 29 December 2006, the Chief Justice of the Supreme Court designated Mrs. SIMO TCHUENTE Lucienne, ep. SIMO BOBDA, President of the said Division.

1.2.1.2 Reorganization of the Registry⁶

To increase the output of this structure and enable it play its role fully, the President of the Audit Bench created a certain number of services at the head of which officials were appointed. They include the Accounts Production Follow-up Service, Service for the Follow-up of Accountants, Records Management Service and the Administration and Finance Service.

Each of these services manages files within its competence. These services in addition treat an important mass of data. All this information is available at all times at the level of the Data Processing Service.

1.2.1.3 Setting up the Data Processing Service⁷

Under the office of the President of the Audit Bench, the Data Processing Service is especially responsible for defining the master plan of the computerization of the Audit Bench and ensuring the effective implementation of the computerization process.

During the 2007 financial year, this service extended the use of the internet in the Audit Bench. At the same time it created a website which is gradually furnished. Software for the management of the Third and Fourth Divisions was set up and the study for its extension to the other Divisions is underway. The daily maintenance of the various computer hardware is equally ensured by the personnel of the service.

⁶ Cf : See Order No. 010/CDC/CSC of 20 March 2007 to organise the Registry of the Audit Bench

Cf: See Order No. 022/CDC/CSC of 03 October 2007 to amend and supplement Order No. 010/CDC/CSC of 20 March 2007 to organise the Registry of the Audit Bench

⁷ Cf Order No. 021/CDC/CSC of 03 October 2007 to set up a Data Processing Service at the Audit Bench

1.2.1.4 Creation of the Training and Cooperation Committee⁸

Convinced the accomplishment of its missions depends essentially on the quality of persons who have to carry them out, the Audit Bench considers training and further training of its human resources as a strategic objective.

To coordinate all these training actions, the Bench set up a committee charged especially with making a list of training needs and look for bodies that can dispense this training.

To the credit of this committee, a training seminar of judges of the Audit Bench on the financial and accounting system of local authorities was organised. Equally, the Committee worked to benefit from the support of an international assistant recruited with the help of our development partners with regard to the preparation of the strategic development plan of the Audit Bench.

1.2.2 TRAINING AND AWARENESS SEMINARS ON THE PRODUCTION OF ACCOUNTS ORGANIZED BY THE AUDIT BENCH

During the 2007 financial year, the Audit Bench worked to build the capacities of public accountants for the formatting and production of accounts through seminars organised for accounting officers of public administrative establishments, Council Revenue Collectors as well as principal Treasury accountants.

The examination of accounts of the 2004 and 2005 financial years revealed several anomalies in the presentation and preparation of the accounts. As a result of the recurrence of these errors, the Bench decided to pursue its pedagogic action through the information of public accountants.

During these meetings held in provincial chief towns, judges developed four sub- themes, namely:

- Presentation of the Audit Bench;
- Responsibility of a public accountant;
- Management account;
- Control and ruling on accounts.

Talking about the first sub-theme, the judges told the participants of the role and missions of the Audit Bench as defined by section 41 of Law No. 96/06 of 18 January 1996 to amend the Constitution of 2 June 1972, Law No. 2003/005 of

⁸ Cf Order No. 014/CDC/CSC of 27 April 2007 to set up a Training and Cooperation Committee

21 April 2003 and Law No. 2006/016 of 29 December, 2006 to lay down the organization and functioning of the Supreme Court.

The second sub-theme developed by the judges had to do with management accounts.

They defined a management account as a set of documents that enable the principal accountant to give an account of the execution of income and expenditure operations in relation to a given budget and accounting management.

The legal regime of the various management accounts was reviewed and defined by Ordinance No. 62/OF4 of 7 February 1962 on the financial regime of the State, Law No. 99/016 of 22 December 1999 relating to the General Rules and Regulations of public establishments and public and semi-public sector enterprises, Decree No. 98/266/PM of 21 August 1998 on the adoption of the local authority budgetary nomenclature and approval of the Sectoral Accounting Standard of local authorities in Cameroon, instruction No. 02070/MINFI/IGT of 22 December 1998 on the summary nomenclature and format of management accounts of accounting officers of public administrative establishments as well as the ministerial instruction of 21 October on management accounts.

These instruments were analysed and commented upon by the participants who dwelled on the modalities of their effective implementation.

The sub-themes relating to the responsibility of a public accountant and the control and ruling on public accounts particularly retained the attention of the seminar participants who were given appropriate documentation on the subjects.

1.2.2 TRAINING SESSIONS OF AUDIT BENCH PERSONNEL

In 2007 several actions were taken in this direction:

- The training at the *Cour des Comptes* of the Kingdom of Morocco by some Registrars of the Audit Bench;
- The seminar on information and communication technologies;
- The seminar on local authority accounting.

1.2.3.1 Training at the Cour des Comptes of Morocco

From 19 to 28 February 2007 our registrars benefitted from the experience of their colleagues in the Moroccan *Cour des Comptes* in the domains of the

organization of the Registry, the reception and registration of accounts, the classification of documents and the keeping of records.

1.2.3.2 Seminar on new information and communication technologies

The seminar on new information and communication technologies was after the putting in place of the master plan of the computerization of the Audit Bench carried out in 2006.

It is within this framework that a local network connected to the internet in the Bench and a familiarity workshop for the personnel of the financial jurisdiction was organised with the objective of initiating participants in the use of the internet.

1.2.3.3 Seminar on local authority accounting

The seminar on local authority accounting held in Yaounde in December 2007 gave an opportunity for exchange between the personnel of the Audit Bench and the trainer from the Consulting Firm FAB et ASSOCIES on the following themes;

- Budget principles applicable to regional and local authorities;
- Preparation and establishment of the local authority budget;
- Execution of the local authority budget;
- Preparation and rendering of a management account;
- Procedure of the base of council additional centimes and the annual forest royalty.

This training was financed by the Support Programme for the improvement of Governance and Transparency in the Management of Public Finances (PAGT). In this programme, the European Union continues to support the Audit Bench by financing training and the purchase of equipment.

1.2.3 RELATIONS WITH OTHER STATE BODIES

After a year of functioning, the Audit Bench is gradually joining the think tank that works for the modernisation and transparency in the management of public finances.

The Bench takes part, in collaboration with other administrations, in the formulation of strategies that will ensure the attainment of this objective. It was in this context that the bench was associated in the national workshop to evaluate the Cameroon public contracts award system on the one hand and in the preparation of the diagnosis of the control system of public finances on the other hand.

1.2.4.1 Workshop to evaluate the Cameroon public contracts system

The national workshop to evaluate the Cameroon public contracts system in which 280 persons took part had as an objective to:

- Present the reports of audits and controls carried out on public contracts awarded in the 2004, 2005, 2006 and 2007 financial years;
- Evaluate the application of the Public Contracts Code since it came into effect up till September 2007;
- Collect proposals for amendments likely to improve the application of the Code;
- Revisit the system of sanctions in view of combating corruption more effectively;
- Examine and propose improvements necessary for the sustainability of the financing of the public contracts system;
- Harmonise the procedures and documents of the Public Contracts Regulatory Agency (ARMP) with those of funding agencies in accordance with the Paris Declaration.

The attainment of these objectives was through five presentations: the award of public contracts, the execution of public contracts, sanctions and settlement of disputes, financing of the system and the computerization of the public contracts system.

In its intervention, the Bench dwelt on the non respect of certain provisions of Decree No. 2004/275 of 24 September 2004 to institute the Public Contracts Code. It stressed without entering into details that in its current state of the examination of accounts and financial statements, violations of the regulations are seen in the splitting of contracts, the non registration of jobbing orders and absence of minutes of final acceptance of works contracts.

1.2.4.2 Diagnosis of the system of the control of public finances in Cameroon

The Audit Bench participated in the work group “Administrative and jurisdictional control” put in place by decision⁹ of the Minister of the Economy and Finance, to analyse the system of control of public finances in Cameroon.

⁹⁹ Cf. Decision No. 07/1337/CF/D/MINEFI of 10 June 2007 relating to the setting up, organization and functioning of the “Administrative and Jurisdictional control” work group.

Meetings of the work group took place mainly during the second semester of 2007.

Firstly, the Administrative and Jurisdictional Control work group was responsible for diagnosing an institutional mechanism for the control of public finances in Cameroon, to measure the degree of conformity of this control system with the standards of supreme international and national institutions of the control of public finances, as fixed by the International Organization of Supreme State Audit Institutions (INTOSAI). Secondly, the work group made *proposals for the improvement of the system of control within the framework of the plan of action of the reform of public finances.*

The diagnosis listed the various control organs of public finances in Cameroon. It distinguishes political control organs (the Finance Committee of the National Assembly), administrative control organs (Supreme State Audit) and jurisdictional control organs (the Audit Bench of the Supreme Court and regional audit courts).

In addition, these institutions are more or less specialised sectoral bodies. In this group are the Inspectorates General of Ministries, the Division for the Control of Budgetary Operations in the Ministry of Finance, the Specialised Inspectorates of Revenue Services (Treasury, Taxation and Customs), the Budget and Finance Disciplinary Board, Finance Control, Department of Stores Accounting, Control of the Ministry of the Economy, Programming and Regional Development, Control Brigades of Personnel and Pensions Expenditure, Consultative and Monitoring Committee of the management of HIPC expenditure, acceptance commissions of service rendered, local committees for the follow-up of the execution of the Public Investment Budget, the Public Contracts Regulatory Agency.

There are other sectoral bodies: the Ad Hoc Committee for the fight against corruption, the Anti-Corruption Observatory, Ministerial units for the fight against corruption, the National Agency for Financial Investigation (ANIF) and the National Anti Corruption Commission (CONAC).

The work group notably established the general weakness of the control system, its lack of coherence, weak technical capacities and inadequate performances by the control organs.

Concerning the Audit Bench, the work group mainly stated that its competence was reduced to the jurisdictional control of accounts of public accountants and the control of accounts of public and semi-public undertakings and that the law of 21 April relating to the jurisdiction, organization and functioning of the Bench had a lot of shortcomings.

It also established that the instructions on the preparation and production of certain management accounts by accountants were insufficient and very unequally applied.

With regard to the conformity of the system of control of public finances with international standards, the work group indicated that if most of the basic postulates are respected in Cameroon, what notably still had to be implemented were efficient internal control systems as well as the generalization and concretization of the obligation of rendering account by all managers of public funds.

The Audit Bench equally took part in the evaluation of public finances according to the PEFA¹⁰ methodology, an exercise which took place in two phases in September to October and December 2007 respectively.

In the PEFA exercise, the Audit Bench is particularly concerned with indicator 26 titled “scope, nature and follow-up of external verification”. The final report recalled that the Audit Bench is a bench of the Supreme Court, that its creation is recent and that its role is essentially that of ruling on accounts of public accountants. It also stated that this role is limited for various reasons and especially by the fact that the annual report, based on facts established within the framework of jurisdictional control, does not carry any opinion on the management of authorizing officers which reduces the interest in relation to the expectations of Parliament and above all that of civil society.

The final report also notes that Parliament was the addressee of the 2006 report of the Audit Bench, which report contained recommendations “to improve the keeping of accounts and budgetary discipline”.

Both the diagnosis done by the Administrative and Jurisdictional work group and the final report following the PEFA methodology indicate that the Audit Bench is an independent financial jurisdiction meeting part of the criteria of a public finance supreme audit body but its scope of powers is restricted.

Contrary to other financial jurisdictions, the competence of the Audit Bench does not cover “management control”.

¹⁰ PEFA : Public Expenditure and Financial Accountability

1.2.5 RELATIONS WITH OTHER SUPREME AUDIT INSTITUTIONS OF FRIENDLY COUNTRIES

In a bid to improve its work methods, the Audit Bench carried out information missions to foreign financial jurisdictions such as the *Cours des Comptes* in France, and the “*Cour des Comptes*” in Tunisia. It was also received at the National Audit Office in Great Britain.

1.2.5.1 Participation in the bicentennial of the Cour des Comptes in France

Created in 1807, this institution celebrated its bicentenary in Marseilles¹¹. Like other financial jurisdictions all over the world, the Audit Bench took part in the commemoration of this event with a delegation headed by its President.

Presentations were made by eminent judges and other personalities during this occasion. These presentations insisted on the respect of principles which govern the specificity of financial jurisdictions:

- These jurisdictions are present in most States as the supreme control organ for public finances;
- The financial jurisdictions are then characterised by their independence which emanates from law or the constitution. These instruments generally define the rules and regulations of its personnel, determine their financial means and recognise their programming freedom and that of the conduct of controls;
- Lastly, financial jurisdictions are identified by the nature and quality of relations with other institutional actors: Parliament, the Executive and the Judiciary. As the case may be, these jurisdictions give advice, assistance and collaboration as the Cameroon delegation could verify during its stay at the Tunisian *Cours des Comptes*.

1.2.5.2 Training at the Cours des Comptes of Tunisia

This took place from 30 April to 9 May 2007 for a delegation of the Audit Bench of the Supreme Court led by its President.

Created by section 69 of the Constitution of Tunisia of 1 June 1959 and organised by Law No. 68-8 of 8 March 1968, the Court examines the accounts

¹¹ For the first time an event of this scope was held out of Paris

and evaluates the financial management of the State, local authorities, public establishments, enterprises in which the State and local authorities have shares in the share capital, private enterprises benefiting from subventions and tax exonerations and political parties. It is the depository of the declarations of property by members of Government in accordance with Law No. 87-17 of 17 April 1987.

As a control organ, the Court exercises double power: a power of jurisdiction and a power of control.

In the exercise of the power of jurisdiction, the *Cours des Comptes* of Tunisia rules on the accounts of public accountants.

The procedure ends in the pronouncement of a ruling by which the Court decides if the accountant has a surplus, a balance or deficit.

The power of control has two aspects: administrative and management control.

Administrative control consists in verifying the regularity and conformity of the financial management.

The management control is translated in the examination of the quality of management. This examination leads the Court to issue an opinion in the manner the administrations use the human, material and financial resources put at their disposal for the realisation of the missions assigned them and the attainment of the set objectives. This verification is on the optimization of resources. In this regard, the Tunisian system of control of public finances by the *Cours des Comptes* is similar to that of the National Audit Office where a delegation of the Audit Bench spent time to be enriched with the experience of an institution 900 years old.

1.2.5.3 Working visit to the National Audit Office and the Commonwealth Secretariat

The working visit by the delegation of the Audit Bench to the National Audit Office and the Commonwealth Secretariat in London took place in August 2007.

- **NATIONAL AUDIT OFFICE OF GREAT BRITAIN**

The National Audit Office is the institution responsible for the control of public finances. It is headed by the Comptroller and Auditor General. He is a representative who prepares the work of the Public accounts Committee of the House of Commons. The National Audit Office works closely with Parliament. It is independent and appoints members of its bureau itself.

The National Audit Office fulfils three main missions:

- Financial audit;
- Performance control;
- International activity.

Financial audit aims at control following international standards on the regularity and sincerity of accounts. Using the same standards, it also verifies the manner in which the tax revenue is spent. Ministries and bodies are the subject of annual control which takes place from 1 April to 31 May.

Performance audit has as motto “helping the nation spend wisely”. In this domain, the National Audit Office gives its opinion and assists Parliament by putting at its disposal objective information on the use of public resources by public bodies. These elements of information are listed in special reports addressed to Parliament by the Comptroller and Auditor General through the Public Accounts Committee.

Performance control has to do with the economy; that is making minimum the cost of resources used, efficiency; that is to say maximising the results to be attained taking into account the available resources, effectiveness; that is realising set objectives.

At the international level, the National Audit Office has several missions the most important of which are:

- The reception of international control organizations which seek advice and counsel;
- Participation in setting up supreme control institutions within the context of international cooperation;
- The audit of international organizations such as the International Court of Justice, the United Nations, the World Food Programme, etc.

The National Audit Office benefits from the assistance of the Commonwealth Secretariat to which the Cameroonian delegation paid a visit.

- **COMMONWEALTH SECRETARIAT**

At the Commonwealth Secretariat, the Cameroonian delegation was received at the Legal Affairs Division and that of Governance and Institutional Development.

These structures presented to the Bench were disposed to provide its help to this young Cameroonian control institution. But it doubted the scope of its powers in the exercise of its missions of control as long as it cannot perform management control.

The Bench could also benefit from the advantages of international cooperation with associations such as AFROSAI¹², INTOSAI¹³ and AISCUF¹⁴, notably through participation in seminars, colloquiums and training for judges.

¹² African Organization of Supreme Audit Institutions

¹³ International Organization of State Audit Institutions

¹⁴ Association des Institutions Supérieures de Contrôle ayant en commun l'usage du Français

PART TWO

SPECIFIC STUDY

**CONFORMING PUBLIC AND SEMI-PUBLIC ENTERPRISES WITH LAW No . 99/016 OF
22 DECEMBER 1999 AND THE OHADA LAW**

Law No. 99/016 of 22 December 1999 which organised the public and semi-public sector established the evolution of enterprises of this sector excluding public administrative establishment, towards two types of corporations: public corporations and semi-public corporations.

Section 112 of this law gave enterprises of this nature already existing, a deadline of one year from the date of promulgation to comply with the provisions of the law.

These provisions themselves were largely inspired by the OHADA law which in the various Uniform Acts, especially the Uniform Act on general commercial law, the Uniform Act on commercial companies and economic interest group, the Uniform Act on the organization and harmonization of the accounting system of enterprises, laid down rules for the constitution, functioning and control of limited liability companies.

These are the same rules which govern semi-public and public enterprises. In effect, section 3(3) of Law No. 99/016 on the General Rules and Regulations governing public establishments and enterprises of the public and semi-public sectors states that:

“Public as well as semi-public corporations shall be set up and shall carry out their activities in accordance with the laws, regulations and practices governing limited liability companies...”

The Audit Bench examined if the financial statements produced by the public corporations were in conformity with the legal framework of Law No. 99/016 of 22 December 1999 referred to above and the OHADA accounting law.

It should be stated that the examination of these statements and the current general documents shows that the problem of being in conformity with the new legal framework is acute in public corporations as was realized through the constitution, administration and control of the category of corporations which have the State as the sole shareholder.

2.1 CONSTITUTION OF PUBLIC CORPORATIONS

As per section 2(5) of the law on the General Rules and Regulations of public establishments and public and semi-public enterprises,

“shall mean any corporate body governed by private law and having financial autonomy whose share capital is held exclusively by the State, one or more regional and local authorities or one or more other public corporations and whose object is to carry out, in the general interest, activities of an industrial, commercial and financial nature.”

There are about three distinct types of public corporations:

- A public corporation with the State as sole shareholder;
- A public corporation with a regional or local authority as the sole shareholder;
- A public corporation with several shareholders.

With regard to public corporations with the State as the sole shareholder, Law No. 99/016 states that they are set up by decree of the President of the Republic and that their Articles of Association shall be approved in this manner (section 24(1)).

The Articles of Association of each public corporation which in a way is their reference instrument has certain annotations with an obligatory character. These annotations may include:

- The form of the corporation;
- The business name;
- The amount of the capital and the nominal value of a share;
- The identity of contributors in cash with, for each of them, the amount, the number and value of the shares.

Lastly, the substantial formality in the creation of a commercial company and therefore a public corporation is its registration in the Trade and Personal Property Credit Register. There are several implications of this registration:

- The date of registration if the start date of the duration of the corporation;
- The legal personality is acquired from the date of registration;

- The date line for the release of the fraction of the capital that was not released on the date of constitution start running from the date of registration.

This formality is therefore fundamental and that is the reason why both the national and international standards have made it statutory.

The examination of the current permanent files in the Audit Bench reveals that there are rare public corporations which have conformed to this regulation.

The situation is even more preoccupying for public corporations, previously public establishments with an industrial and commercial character which almost all carry out their activities in violation of the OHADA law and Law No. 99/016 of 22 December 1999 referred to above:

- Their old Articles of Association or organic decrees in lieu thereof have not been harmonized with the new law;
- Certain management organs provided for by the new regulation are not in place. This is the case with the general assembly and the auditors.
- There is no authorized share capital or if the old articles of association mention it, it is purely virtual in the absence of any element to attest to the subscription and even moreso the release.

2.2 MANAGEMENT OF A PUBLIC CORPORATION

A public corporation constituted in the form of a limited liability company has two management organs:

- The Board of Directors,
- The General management.

In application of the principle of conformity raised by the OHADA law, the existence of these organs is established by the Articles of Association. But these articles of association not having been generally amended for better conforming to the new positive law, the management organs face some notable dysfunctions such as:

- The non respect of the division of duties between the board of directors and the general management most often to the detriment of the former;

- The non respect of the duration of the mandates of members of the board of directors and general management;
- The non respect of the modalities of appointment or designation of members of these organs.

Moreover, from the accounting point of view, the implementation of the provisions relating to *Uniform Act on the organization and harmonisation of accounting systems in party-States to the Treaty relating to the harmonisation of business law in Africa* which prescribes among others the institution of a general accounting, recourse to normalized accounting standards, a list of which features in the OHADA accounting system, the obligatory keeping of accounts books, the respect of deadlines and procedures for the establishment and approval of annual financial statements, have not in most cases started.

2.3 CONTROL OF PUBLIC CORPORATIONS

As a general rule, the control of commercial companies and thus public corporations is ensured by both shareholders, that is the general assembly and the external auditors.

This system of control provided for by the law of 1999 and by the Uniform Act relating to law on commercial companies and economic interest groups has in practice faced a lot of difficulties:

- The absence of a general assembly among especially corporations classified in the category of public establishments of an industrial and commercial character prior to the promulgation of Law No. 99/016 of 22 December 1999;
- The non respect of procedures for the designation of statutory and substitute external auditors ;
- The designation of external auditors who do not meet the criteria set by Law No. 99/016 (approval by CEMAC and registration in the National Order of Chartered Accountants of Cameroon) or by organs that are not competent;
- The non respect of the duration of mandates of the external auditors;
- The non respect of the procedures for the preparation and approval of annual financial statements;

- The erosion of the powers of the general assembly in favour of the board of directors or the general management.

All these dysfunctions contribute in weakening the efficiency of the control system provided for in the regulations. These are the issues which today all over the world are at the core of the concerns for the improvement of “corporate governance”.

The preceding developments reveal that only a few public corporations with the State as the sole shareholder have conformed to the provisions of Law No. 99/016 of 22 December 1999 on the General Rules and Regulations governing public establishments, public and semi-public enterprises on the one hand and on the other the OHADA law especially the Uniform Act of 17 April 1997 relating to the law on commercial companies and economic interest groups.

Consequently, the Audit Bench wishes that the organs involved in relation to the law referred to above, as well as the Uniform act of the OHADA law conform to all the provisions contained in these instruments.

PART THREE

SUMMARY OF THE REPORT BY THE AUDIT BENCH ON THE ACCOUNTS OF THE STATE

The jurisdictional control of the accounts of the State has several characteristics which are presented below. It gives the following balance sheet, established from facts noticed by the Audit Bench during the verification of 2004 accounts.

It is the subject of a special report addressed to the President of the Republic in accordance with section 39(d) of Law No. 2006/016 of 19 December 2006 to lay down the organization and functioning of the Supreme Court.

3.1 CHARACTERISTICS OF THE JURISDICTIONAL CONTROL OF STATE ACCOUNTS

From an accounting point of view, the organization of the State rests on a network of thirteen principal accounting stations. The thirteen management stations register a good number of operations and accounting entries which represent substantial sums of money. They generate a considerable volume of supporting documents. Consequently, the task of control by judges being considerable, the production at the Audit Bench by accounting officers in conformity with regulations is of considerable importance.

The Bench carried out a comparison between trial annual balances and the finance law of 2004.

3.1.1 PRODUCTION OF STATE ACCOUNTS FOR THE 2004 FINANCIAL YEAR AND THEIR REGISTRATION

During 2004, twelve out of the thirteen principal accounting stations which cover 471 subsidiary accounting stations destined for the First Division, reached the Audit Bench directly or were transmitted by the Ministry in charge of Finance. These accounts were registered after the formal verification of their state and the related supporting documents.

Section 26(2) of the law of 21 April 2003 states that “*accounts produced by certified public accountants, finalized and examined in accordance with the instruments in force, shall be submitted for adjudication to the Audit Bench within three (3) months following the closing of the financial year*”. The 2004 accounts were expected at the Registry of the Audit Bench not later than 31 May 2005. Twelve of the thirteen accounts were received in 2006 thus with serious delay. Despite the imperfections, they were declared as being produced because they generally conformed to the standards of the instruction by the Minister of the Economy and Finance of 21 October 2005 relating to the modalities for the preparation, presentation, production and transmission of management accounts.

On the other hand, because they did not respect the prescriptions of this ministerial instruction, the management account of the financial constituency of the Centre province for the 2004 financial year was declared not produced and returned to the Yaounde Provincial Treasury.

The management accounts of 2004 as well as the bundles of supporting documents produced in support were the object of provisional filing by the Records Service of the Bench while waiting for their distribution to the Judge Rapporteurs. These documents were in 449 bags weighing about 20 kilograms/kgs each and containing about 430,000 supporting documents.

3.1.2 EXAMINATION OF STATE ACCOUNTS

The examination of the accounts by Judge Rapporteurs revealed that many supporting documents were lacking. For the accountants to be able to complete the accounts they had produced, requests of more than 482,000 documents were addressed to them. Only a little above 386,000 complementary supporting documents reached the Bench, that is a satisfaction rate of about 80%.

These rough estimates however show the very incomplete nature of the accounts of 2004. They indicate that important progress still has to be made in the future for the production of good quality accounts.

Twelve questionnaires were addressed to the accountants by the Judge Rapporteurs and twelve examination reports were established.

3.1.3 RULINGS RENDERED BY THE AUDIT BENCH ON STATE ACCOUNTS

The Audit Bench rules on the account of public accountants from the 2004 financial year. In case of irregularity, the personal and financial responsibility of the accountant in question may be committed and he may be in debit.

Four interim rulings were rendered by the Audit Bench (First Division) and notified to the accountants. Two rulings contain injunctions and two others had to do with condemnations for fines to be paid.

The inadequate human resources, the considerable volume of accounting operations to be controlled, the incomplete nature of the accounts produced, the imperfect classification of the different documents forming the accounts as well as the methodology of full control retained by the Audit Bench explain that the percentage of accounts controlled for the 2004 financial year is around 60%.

Moreover, at this take-off of jurisdictional control, the judges overcame several obstacles relating to the putting in place of work procedures and methods. Thus, solutions were given to the various problems such as the implementation of the procedure of condemnations to pay fines by public accountants for lateness in the production of accounts, the methodology of jurisdictional controls, the presentation and content of examination reports and rulings or even the setting of the account line.

3.1.4 ACCOUNTING ORGANIZATION OF THE STATE

The current accounting organization of the State is based on the General Accounting Standard of the State. This accounting standard was adopted by Heads of State of the Central African Customs and Economic Union on 7 December 1974 and rendered executory by Decree No. 76/257 of 1 July 1976, supplemented by Decree No. 79/473 of 15 November 1979. It has had several enabling instructions.

The accounting organization that emerged from the General Accounting Standard of the State is dispersed. It depends not only on the network of accountants at the base but also on that of centralizing accountants.

The accountants at the base collect together Treasury accountants, specialized accountants and revenue officers:

1. Treasury accountants work in treasury stations. They are responsible for the registration and classification of operations entered in the various ledgers in sub treasuries, revenue collection offices.
2. Specialized accountants are attached to tax or customs administrations. They work in tax collection offices, customs duties collection offices and land revenue collection offices. They are bound to keep similar accounts like that of the treasury.
3. Income and expenditure officers are also put at the disposal of administrations in order to effect specific operations related to the management of the accountant under whom they work.

Centralizing accountants, subject to the production of management accounts, control and aggregate the operations of accountants at the base working under their authority.

1. At the local level, purchase order zone, the Provincial Treasurers centralize the operations of the accountants at the base, either daily (Yaounde and Douala) or every ten days in the rest of the country.
2. At the central level, commitment order zone, the Treasurer-Paymaster General, in his double capacity as accountant at the base and a centralising accountant, treats his own operations as well as those of accounting stations abroad which are subjected to the procedure of purchase voucher.

The organization has 471 accounting stations grouped in commitment order and purchase order zones. This dense network generates accounting movements for a total of 12,107 billion CFA francs, according to the total amount of the trial annual balances of accounts.

TABLE 7: FINANCIAL MAP OF THE STATE

In CFA francs

Financial constituency	Accounting stations	Total of accounting movement	Percentage
Office of the Paymaster General of the Treasury	37	3 901 998,8	32.2
Central Accounting Office of the Treasury	2	2 679 662,5	22.1
Adamawa	23	50 839,2	00.4
Centre	92	1 673 152,2	13.8
East	37	46 062,7	00.4
Far North	52	93 579,4	00.8
Littoral	26	2 990 217,5	24.7
North Littoral	19	39 820,5	00.3
North	26	67 148,0	00.6
North-west	40	76 885,1	00.6
West	51	100 175,1	00.8
South	30	63 676,9	00.5
South-west	36	334 612,2	02.8
Total	471	12,107,830.4	100,0

Source : Registry of the Audit bench

The table above shows, by financial constituencies, the distribution of accounting stations and those of accounting movements according to the annual trial balances. Four accounting stations register close to 93 % of the movements.

3.1.5 COMPARISON BETWEEN ANNUAL TRIAL BALANCES AND THE SETTLEMENT LAW OF THE 2004 FINANCIAL YEAR

The Settlement Law is an accounting document submitted to Parliament for approval. It decides the definitive amount of income and expenditure of the budget to which it is related and establishes the budgetary outcome. It approves the differences between the results and the estimates contained in the initial finance law, modified if need be, by amending finance laws.

The Settlement Law helps in the evaluation of the quality of budgetary estimates. It highlights the differences between the budgetary estimates and its effective execution for information to be obtained and for corrective measures to be adopted.

TABLE 8: INCOME AND EXPENDITURE REALIZED PER ACCOUNTING STATION FOR THE 2004 FINANCIAL YEAR

En Francs CFA

Accounting station	Revenue		Expenditure	Percentage
Office of the Paymaster General of the Treasury	272 940.0	20.8	912 686.5	88.7
Central Accounting Office of the Treasury	444 701,8	33.9	67.6	00.0
Adamawa	4 188.4	00.3	7 082.7	00.7
Centre	72 515.3	05.5	14 911.0	01.4
East	2 404.7	00.2	7 977.0	00.8
Far North	6 024.8	00.5	12 222.9	01.2
Littoral	438 912.0	33.5	19 588.0	01.9
North Littoral	3 079.0	00.2	4 600.4	00.4
North	5 557.4	00.4	7 759.2	00.7
North West	5 142.0	00.4	13 030.5	01.3
West	7 865.7	00.6	8 834.2	00.8
South	3 559.4	00.3	11 763.9	00.7
South West	44 372.9	03.4	17 784.5	01.4
TOTAL	1 311 263.5	100.0	1 027 948.6	100.0

Source : The data is from the annual trial balances of principal accountants, 2004 financial year

According to the indications drawn from the trial annual balances of the accounts of principal accountants and listed in the table above, the total revenue stood at 1,311.26 billion CFA francs and the expenditure stood at 1,027.94 billion CFA francs. Three accounting stations recovered 88% of the revenue and the Office of the Paymaster General of the Treasury alone effected close to 89% of the expenditure

In the 2004 Settlement Law the total revenue realized stood at 1,451,933 billion CFA francs and the total authorized expenditure was 1,345 billion CFA francs. The table below shows the difference between the budgetary estimates and the realizations as they appear in the annual trial balances of the accounts of State accountants.

TABLE 9: DIFFERENCES BETWEEN ESTIMATES AND REALIZATIONS FOR THE 2004 FINANCIAL YEAR

In CFA francs

	Estimate (1)	Real (2)	Net balance	<i>Rate of realization</i>
Service-generated revenue	1 447 000.0	1,311,263.5	135,736.5	90.6
Internal expenditure	1 277 000.0	1,027,948.6	249,051.4	80.5
<i>Primary balance</i>	<i>170 000.0</i>	<i>283,314.9</i>	<i>113,314.9</i>	<i>166.7</i>
Debt servicing (3)	147 416.0	147,416.0	0.0	100.0
<i>Cash in hand</i>	<i>22 584.0</i>	<i>135,898.9</i>	<i>113,314.9</i>	

Sources :

- (1) 2004 finance law; (2) Statistics from the annual general balances of the 2004 financial year; - (3) Debt servicing : initial estimates of 202 billion CFA F final payments of 147.4 billion CFA F - Gross Domestic Product (GDP : 8, 311.4billion CFA F and budget deficit 01.6 % of GDP.

In revenue, the rate of realization is 90.6%. In the Settlement Law, it stands at 91.3 %. (excluding loans and donations). In expenditure, the rate of realization is 80.5%. In the Settlement Law it is globally at 83%.

TABLE 10: EXECUTION OF THE 2004 BUDGET

In CFA francs

	Estimates(1)	Realizations (2)	Rate of realization
Revenues	1,617,000.0	1,451,134.6	89.7
-1 Service-generated revenue	1,447,000.0	1,311,263.5	90.6
-2 Loans and donations	170,000.0	139,871.1	82.3
Expenditure	1,617,000.0	1,501,310.8	92.8
-3 Running	879,000.0	818,644.7	93.1
-4 Investment	201,000.0	219,303.9	109.1
-5 Debt	537,000.0	463,362.2	86.3
Deficit	None	-50 17.2	

Sources:(1) 2004 Finance Law ; (2)Data from the annual general balances of the accounts of State accountants for 2004 financial year

Several facts can be established from the data in the table above in relation to the Settlement Law of the 2004 financial year.

With regard to revenue, the convergence of results is relatively good. The total realizations stand at 1,451.13 billion CFA francs while the Settlement Law put an amount of 1,451.93 FCA francs, that is a difference of 798 million. The rate of realization is 89.7%.

Concerning expenditure, the differences between the data drawn from the annual trial balances of accounts of State accountants and the Settlement Law are quite significant. The Settlement Law put a total expenditure of 1,345 billion CFA francs and a positive balance of 106.85 billion CFA francs while the exploitation of the trial balances gives a total amount of 1,501.31 billion CFA francs and a negative balance of 50.17 billion CFA francs, that is about 1% of the Gross Domestic Product.

These differences raise the question of the reliability and sincerity of the information contained in the financial statements of the State (Settlement Law, annual trial balances of accounts) and render necessary the establishment of a general account of the finance administration and its consideration in the preparation of the Settlement Law.

3.2 MAIN FACTS ABOUT STATE ACCOUNTS

The Audit Bench revealed irregularities with respect to the rules fixed by Ordinance No. 62/OF/4 of 7 February 1962, to the provisions of Law No. 2003/005 of 21 April 2003 and to the principles laid down by the instruction of Minister of the Economy and Finance of 21 October 2005 relating to the modalities for the preparation, presentation, production and transmission of management accounts.

The Bench equally controlled the accounts with respect to the prescriptions of the circular of 8 January 2004 on the instruction relating to the execution and control of the State budget and those of bodies receiving State subsidies for the 2004 financial year.

From the regulatory perspective, the instruction of 21 October 2005 states that *“the management account is made up of figures which ensure traceability in the form of results of operations during a financial year and an account on documents which includes general documents and supporting documents of operations described in the accounts in figures”*.

3.2.1 MANAGEMENT ACCOUNT IN FIGURES

According to the ministerial instruction mentioned above, the management account in figures includes:

1. The annual trial balance of accounts;
2. The statement of development of budgetary revenues;
3. The statement of development of budgetary expenditures;
4. The situation of Special Treasury accounts.

The control of the accounts by the judge has to do especially with the management accounts in figures themselves and the series of accounts from one financial year to another.

3.2.1.1 The annual trial balance of accounts

The annual trial balances of accounts is presented in the form of a table composed of columns containing the following rubrics: account numbers, the wordings of the accounts, the carried-forward debit and credit balance, movements of the debit and credit period, accumulated movements in debit and credit, credit and debit balances.

It must specify the name of the principal accountant responsible for the management as well as the period concerned in case of plurality of accounts during the financial year.

The Audit Bench noticed that certain principal accountants presented trial balances without specifying the name or even without certifying them as being in conformity with the accounting registers.

3.2.1.2 Statement of development of budgetary revenues

The statement of development of budgetary revenues presents by budgetary charge, the estimates, the bills collectible by 31 December of year N-1, the issuances of the period, the total expenditures, collections on claims and spontaneous collections, the bills collectible as at 31 December of the financial year concerned.

Most of the financial constituencies do not respect this presentation. Moreover, some accountants did not write their names on the statement of development and did not certify them as being in conformity.

3.2.1.3 Statement of development of budgetary expenditures

The statement of development of budgetary expenditures is a document which gives details by budget head of the following elements:

1. Allocations including opened credits, cancellations and effective credits;
2. Commitments;
3. Received payment orders;
4. Expenditure;
5. Payments;
6. Balance to be paid.

This document must equally contain the name(s) of the accountant(s) responsible for the management, specify the periods concerned and be certified in conformity.

The provisions of the ministerial instruction referred to above were not applied in the majority of financial constituencies.

3.2.1.4 Situation of Special Treasury accounts

The ministerial instruction of 21 October 2005 mentions special Treasury accounts without giving precisions on the use of these accounts.

But these special accounts can be subject to special rules against the budgetary and accounting principles of common law. The Audit Bench is not informed about the special Treasury accounts which have been set up and their *modus operandi*.

3.2.1.5 Abnormal balances of certain accounts

Instruction No. 04/001/MINIFI/DT/DER of 1 January 2004 on the nomenclature of Treasury accounts provides that accounts of class ‘4’ and ‘5’ classified hereunder must have a credit or null balance. Despite this provision, some accounts, instead of having credit balances, had debit balances.

In the answers to the questionnaires, the accountants indicated that the abnormal balances of the accounts came from:

1. The payment of expenditures of financial years previous to 2004 and the balance of expenditure balance during years of expenditure which were not entered in the brought forward;
2. Expenditures before payment which were not effected;
3. Requests for bank transfers which were the subject of expenditure;
4. Gaps and accounting errors.

The Audit Bench notably established that the balances of accounts with abnormal debits reached a total amount of 153 billion CFA francs, that is, more than 10% of State expenditure. The abnormalities concern especially accounts of the Office of the Paymaster General of the Treasury and the Douala Provincial Treasury. The scope of this observed phenomenon questions the regularity and sincerity of accounting principles and thus that of the accounts presented.

3.2.2 GENERAL DOCUMENTS

The general documents are constituted by the various documents necessary for verification of all the operations. The ministerial instruction of 21 October 2005 determines the number and form.

3.2.2.1 Situation of accounts receivable

The Audit Bench realized that the presentation of statements of accounts receivable adopted by the accountants does not respect the administrative and economic classification retained by this ministerial instruction.

3.2.2.2 Situation of bills collectible

Bills collectible concerning mechanized taxes (IME) and the collection warnings (AMR) stood at 191.66 billion CFA francs as at 31 December 2004. They represent 13% of State income. These rates have been growing since 1967.

Questioned within the context of the examination of the work done in view of collecting the sums due, the accountants simply mention in their responses of the existence of the commission responsible for the admission of the non collectible assessed values. It is not up to the Bench to ask for precisions on the measures they have effectively taken to obtain the admission as non values the taxes whose collection proves to be impossible. Likewise, they do not produce documents likely to justify the measures they have taken in view of collecting debts.

The Audit Bench recalls that the sums due by the taxpayers as taxes are prescribed to their benefit after a deadline of four years following the due date, if no decision interrupts the prescription and that the Tax Collector who has not taken any measures against late owing taxpayers for four consecutive years, from the date of collection warning loses his petition and loses all rights and all actions against these tax debtors.

The procedure of admission as non-value of not collectible assessment is fixed by sections L.91 to L.94 of the General Tax Code.

For the period before, there were other measures. The legal scheme that governed these non-collectible assessments was fixed notably by sections 345 to 347 of the General Tax Code applicable in the 2004 financial year.

Thus, the Treasury accountants responsible for the collection of taxes present to the Director of Taxes the statements of non-collectible assessments including the

assessments whose collection is impossible because of a change of fortune of the situation of the taxpayers since when they were assessed. According to section 346, these statements must mention all the useful indications and *“include a precise manner all information and all the details that will help in establishing that the assessments had become non collectible. They must be supported by all documents likely to justify the measures taken for collection”*.

In application of section 347, it is up to the Minister in charge of Finances, the Director of Taxes and the Head of the Provincial Tax Centre to decide, each in his sphere, on the requests for admission as non-value of non-collectible assessments in the forms and conditions laid down in section 341.

In effect, this section stated that the rebate, moderation or transaction was granted according to a ceiling system by the Minister in charge of Finance to the Director of Taxes and the Head of the Provincial Tax Centre, after the opinion of the Central Tax Commission, of the Minister in charge of Finance and the Provincial Tax Commission, respectively.

On the basis of section 351, the assessments allocated in non-values are the subject of registered certificates established by the Director of Taxes to serve as supporting documents to officials of the collection service.

The total amount of sums to be collected on debts, both for mechanized taxes and the collection warnings reached an amount of 191.66 billion CFA francs With 116.354 billion of CFA francs, the remainder to be collected on mechanized taxes represents more than 60% of the total.

The Audit Bench noticed that these debts resulting from mechanized taxes are not included in the accounts by principal accountants. Consequently, the registered lists of the remainder to be collected are produced. It is therefore not possible for the jurisdiction to control the requests sent out for the collection of debts and to evaluate if the personal or pecuniary responsibility of the accountants is likely to be committed, especially in case of inaction leading to the prescription of debts.

The importance of non recovered debts, their age and the absence of precise information on their collectability vitiate the sincerity of accounts of the State. An important effort at clarification must be accomplished and specific measures taken to absorb the stock of debts accounted for in account 41. Moreover, the current procedure involves the action of several actors whose role is not perfectly established.

3.2.2.3 Administrative account of the authorizing officer

The ministerial instruction of 21 October 2005 provides that “*the administrative accounts of authorizing officers must be attached to the management accounts of accountants*”. Section 27(5b) of the law of 21 April 2003 states that the observations of the accounts judge “*result from the comparison of the type and volume of income and expenditure, with authorizations which feature in the administrative accounts and budgets*”.

No administrative account of the authorizing officer was attached to the management account, notwithstanding the provisions referred to above.

Section 5(2) of Law No. 2007/006 of 26 December 2007 relating to the financial regime of the State states that the authorizing officer is bound to produce an annual administrative account giving the management decisions and a performance report on the programmes for which he is responsible.

Relating to income, this section specifies that there are two categories of authorizing officers: principal authorizing officers and delegated authorizing officers. The Minister in charge of Finance is the principal authorizing officer while the other Ministers or those ranking as such and officials of tax administrations are delegated authorizing officers for the income produced by their administrations.

This same section indicates that in case of expenditure, there are three categories of authorizing officers: principal authorizing officers, secondary authorizing officers and delegated authorizing officers. Principal authorizing officers are Ministers or those ranking as such and presidents of constitutional bodies. Secondary authorizing officers are heads of deconcentrated structures of the State who receive expenditure authorizations from principal authorizing officers. Delegated authorizing officers are heads of structures appointed by principal or secondary authorizing officers for expressly defined matters.

For a better control of public finances, it is important to be able to confront the information contained in the management account against those entered in the administrative account.

3.2.3.4 Deficit and debit accounts of accountants

Account 471 and its sub-divisions relate the deficits and debits of public accounts. They have an accumulated debit balance of 1,242,976,496 CFA francs for 2004.

Public accountants are responsible for affecting all the diligence to obtain the payment of accounted sums in this account. These sums correspond to cash shortages resulting in cases which may be varied (misappropriation, burglaries ...) with officials finding themselves in particular situations (deceased persons with or without rightful claimants, authors of criminal acts in detention...)

During the examination the Audit Bench realized that there were no statements of development of balance of account 471 specifying case by case, the accused persons and the diligences undertaken in view of clearing each deficit.

3.2.2.5 Oath and security provided by public accountants

Section 90 of Ordinance No. 62/OF/4 of 7 February 1962 states that “*Treasury accountants shall be bound to take an oath within three months following their installation*”. Section 91 indicates that “*except by waiver provided for by law, any Treasury accountant must constitute a caution and he may not continue to occupy the position of accountant if his caution is not maintained*”.

The Audit Bench must have the documents which attest that the accountant, whose account has to be ruled on, is in a regular situation in this regard. But the Bench has realized that these documents are not attached to the management account.

3.2.3 SUPPORTING DOCUMENTS

Income and expenditure operations must be supported by supporting documents provided for by the nomenclatures established by the Ministry of Finances. The Audit Bench verifies the documents and on the spot the regularity of the operations described in the accounts.

3.2.3.1 Classification of supporting documents

The supporting documents must be classified in a precise manner. The ministerial instruction of 21 October 2005 determined the following order for the detailed statement of income:

- By budgetary charge;
- By accounting station;
- By chronological order.

For the detailed statement of expenditure, the ministerial instruction fixes the following order:

- By head;
- By item and article;
- By chronological order.

The Audit Bench realized that for the detailed statement of expenditure, the accountants did not respect this classification and arranged the supporting documents by accounting station;

3.2.2.2 Revenues

In matters of revenue, the accountant is in charge of:

1. Receiving all types of products whose collection was regularly authorized;
2. Controlling the clearance of revenue vouchers;
3. Executing “all the requests provided by law and the settlement in order to collect revenue, to procure a security for the Treasury or to preserve one for it” (section 70 of Ordinance No. 62/OF/4 of 7 February 1962).

Where he fails to fulfil these obligations, his personal and pecuniary responsibility is likely to be committed. The presumption of the responsibility of the accountant is based on established facts. It has to do mainly with expenditures in the accountant’s entries which have not been collected.

The Audit Bench realizes in this regard that the intervention of several structures (Tax Revenue Offices, Major Enterprises Division...) within the scope of the issuance and collection of revenues does not facilitate the exercise of the obligations incumbent on the principal accountant. The plurality of participants does not sometimes help the Audit Bench in establishing facts likely to commit the personal and pecuniary responsibilities of the principal accountant.

3.2.3.3 Expenditure

In issues of expenditure, in application of Ordinance No. 62/OF/4 of 7 February 1962, accountants are responsible for controlling:

1. The quality of the authorizing officer, his delegate or his alternate;

2. The application of laws and regulations concerning the expenditure under consideration;
3. The validity of the claim;
4. The availability of funds or values;
5. The exact charge of the expenditure under the head which it concerns according to its nature or subject;
6. The availability of credits;
7. The validity of the bill;
8. The full discharge of the settlement.

With regard to the validity of claims, the accountant must control the justification of the service rendered, the exactness of clearance calculations, the preliminary intervention of regulatory controls and the production of justifications.

The absence or inadequacy of one of these controls is likely to commit the personal and pecuniary responsibility of the accountant concerned.

There are two distinct zones: the commitment order zone and the purchase order zone.

- **Commitment order zone**

The commitment order zone relates the budgetary operations effected by services of the central administration. The Office of the Paymaster General of the Treasury ensures the execution and periodically centralizes the accounts produced by accounting stations abroad. It processes 88.7% of State expenditure.

Verifications carried out by the Audit Bench on the accounts of the Office of the Paymaster General on the 2004 financial year reveal two problems linked to imprest funds and the making available of funds.

According to article 1 of the Decree No. 86/055 of 14 January 1986, “*revenue offices and imprests fall under the competence of the Minister in charge of Finance*”. Circular No.04/001/MINFI/B of 8 January 2004 specifies that “*operations for imprests shall be justified by expenditure documents, except*

those relating to the official residences of ministers and those ranking as such which are special imprests which shall be justified exceptionally by expenditure certificates”.

Concerning expenditure done by imprest services, the Audit Bench realized that for a sample made up of nineteen ministries and institutions, the total payments stood at close to 17 billion CFA francs not supported by supporting documents and therefore in violation of the circular of January 2004 referred above.

Moreover, the circular of 8 January 2004 indicates that *“the procedure of making available funds being contrary to regulation, remains suspended”* (chapter five, various expenditure procedures, C –Making available funds).

The Audit Bench realized that payment of up to 10.56 billion F CFA francs in 2004 was effected by six ministries through “disbursement” decisions and by decisions to grant bonuses and other remunerations by the procedure of “billetage” (payment in cash). For the entire Office of the Paymaster General, the total payments through this procedure stood at 52 billion CFA francs. These expenditure operations were not supported with regular supporting documents (duly signed payment statements, accounts of use of funds with their justifications).

Consequently, the Audit Bench questions the scope that should be accorded the suspension decision of making funds available taken by the circular of 8 January 2004.

The Bench notes that an important part of the expenditure effected within the framework of special execution procedures which are imprest services, specific making available of funds and making funds available to cash clerks are not justified especially concerning the full discharge of the payments.

The verification of the related supporting documents of expenditure on material and mission allowances of the Office of the Paymaster General of the Treasury equally showed inadequacies (absence of mission orders, absence of bills or production of old pay vouchers).

- **Purchase order zone**

The purchase order zone states the budgetary operations done by all external services. This zone includes all financial constituencies grouped by provincial treasuries.

The Audit Bench noticed the following irregularities:

1*) The exact charge of the expenditure to the head concerned according to its nature or subject

The irregularities concerning wrong charges stood at a total of 18.9 million CFA francs.

2*) Validity of claim

As indicated above, controls to be done by the accountant concerning the validity of claims relate to:

1. Justification of service rendered;
2. Exactness of clearance calculations;
3. The preliminary intervention of regulatory controls;
4. Production of justifications.

All the irregularities concerning the validity of the claim stood at 1.42 billion CFA francs.

3*) Character of payment in full discharge

Payments done without payments in full discharge or with inadequate full discharge are irregularities whose amount stood at a total of 702.9 million CFA francs.

4*) Payments in cash of amounts above 100,000 CFA francs

Banned by the circular of 8 January 2004, payment in cash of vouchers above 100,000 CFA francs is an irregularity when it is not expressly and exceptionally authorized. Payments of a total amount of 614 million CFA francs were done in violation of this rule.

In the purchase order zone, the total amount of irregularities established by the Audit Bench stands at 2.59 billion CFA francs, that is, 2.24% of the total expenditure effected by principal accountants.

In all, irregularities concerning the validity of claims stood at 1.42 billion CFA francs, that is, 55% of anomalies. The non respect of the rule of service rendered

represents an amount of 605.6 million CFA francs, that is, 23.4% of irregularities.

The high number of irregularities established by the Audit Bench as well as the relatively high amount of money involved shows that the controls carried out by accountants on public expenditure are insufficient.

3.2.4 PROPOSED DECISIONS MADE BY THE FIRST DIVISION OF THE BENCH DURING EXAMINATION OF ACCOUNTS

The First Division proposed one hundred and thirty five decisions on the accounts of the 2004 financial year. The distribution by type of proposed decision is as follows:

- 85 injunctions for the future;
- 40 firm injunctions;
- 3 filings (**mise en mémoire**);
- 7 reservations concerning accountants

Of the 135 proposed decisions, 77 (that is 57%) has to do with the validity of claims.

Meanwhile, 85 out of the 135 proposed decisions, that is close to 63%, made up of injunctions for the future. The 40 firm injunctions represent less than 30% of the decisions.

The Audit Bench preferred a pedagogic approach concerning the accountants for the 2004 financial year which was the first financial year which it had to rule on.

Through the reasoned injunctions for the future, the financial jurisdiction clearly indicated to the accountants that henceforth they should not only pay their attention to the established irregularities but also fulfill all their obligations failing which their personal and pecuniary responsibilities shall be committed during the next control.

As far as the firm injunctions are concerned, they were proposed only in the cases of serious breaches which caused a prejudice to the State.

PART FOUR



RECOMMENDATIONS

The examination of the accounts during 2007 revealed a certain number of anomalies. Reasoned recommendations have been formulated in an attempt to curb these anomalies.

But before presenting these recommendations, it is necessary to make a point on those contained in the 2006 Annual Report, based on whether they were followed or not.

4.1 SATISFIED RECOMMENDATIONS CONTAINED IN THE 2006 ANNUAL REPORT

The Bench had issued recommendations which were satisfied. Among them are:

⇒ ***Recommendation No. 11:** conclusion of the reform of the State's financial system, ensuring the production of an administrative account.*

This recommendation has been satisfied with the promulgation of Law No. 2007/006 of 26 December 2007 relating to the financial system of the State which clearly adopted the principle of the preparation of an administrative account by the authorising officer of the State budget.

⇒ ***Recommendation No. 15:** putting in place a sectoral accounting standard for public administrative establishments.*

The said recommendation was satisfied with the publication of Decree No. 2008/0466/PM of 13 March 2008 relating to the budgetary and accounting nomenclature of the said structures. On its part, the sectoral accounting standard gives accounting officers all the directives likely to help them in preparing their management accounts.

⇒ ***Recommendation No. 25:** re-intensification of permanent training of all the judges and registrars through refresher courses, seminars, etc....*

This recommendation was satisfied, considering the refresher courses and seminars from which the personnel benefitted in 2007.

⇒ ***Recommendation No. 26:** relating to the setting up of a library of the Audit Bench.*

This was satisfied. In effect, since the beginning of 2008, a library is gradually being set up in the Bench.

⇒ ***Recommendation No. 27:** relating to the setting up of an appropriate filing system in appropriate site.*

This recommendation has been followed with the opening of premises situated at Nkooza to house the records service of the Bench. This has been operational since 2007.

⇒ **Recommendation No. 29:** *the promotion of a framework of consultation with MINEFI in view to improve the keeping and presentation of management accounts.*

This recommendation was partly followed. In effect, through correspondence of the Minister in charge of Finance addressed to the Chief Justice of the Supreme Court on 11 April 2008, this authority accepts the principle of setting up a consultation framework as mentioned above. It is therefore up to the President of the Audit Bench to get in contact with the Ministry of Finance for the follow-up of the project.

4.2 UNSATISFIED RECOMMENDATIONS CONTAINED IN THE 2006 ANNUAL REPORT

Except the recommendations mentioned above which were satisfied, all the other recommendations contained in the 2006 Annual Report are being repeated.

- On Law No. 99/016 of 22 December 1999 relating to the General Rules and Regulations of public establishments and public and semi-public enterprises.

⇒ **Recommendation No.5:** relating to the application of the provisions of section 112(1) and (2) of the law referred to above by public establishments and public and semi-public enterprises. This section stipulates

- (1) *Public establishments, enterprises in the public and semi-public sector must comply with the provisions of this law within 1 (one) year starting from the date of its enactment.*
- (2) *At the expiry of this time-limit, ad hoc representatives shall be appointed by decision of the minister in charge of finance to enterprises which have not complied with the provisions of this law for a period of not more than 6 (six) months for the specific purposes of updating their articles of association, producing financial statements and setting up the appropriate governing bodies.*

⇒ **Recommendation No. 6:** relating to the duration of the mandate of management bodies in public establishments, public and semi-public enterprises.

“The Audit Bench recommends in addition the respect of the duration of mandates of the various management bodies”.

⇒ **Recommendation No. 7:** relating to the uniformization of authentication procedures of certified financial statements:

“The Bench recommends that ONECCA sees to the standardisation of the procedures of authentication of certified financial statements.

- **On the instruction of 21 October 2005 by the Minister of the Economy and Finance concerning management accounts**

⇒ **Recommendation No. 9:** relating to the respect of the said instruction;

“The Audit Bench recommends the scrupulous respect of the instruction relating to administrative control of accounting stations on 31 December each year. This control should be able to assess the situation of balances of all financial accounts and hence the situation of the State’s portfolio”.

⇒ **Recommendation No. 10:** relating to the application of the auxiliary accounting of the State:

“The Audit Bench recommends the application of the auxiliary accounting of the State in income (CADRE). This will help in the creation of an interface between the revenue collection offices (TAXATION, CUSTOMS) and the TREASURY in order to know at any moment the amounts of payments, collections as well as bills collectible”.

- **On the management accounts of Council Revenue Collectors**

⇒ **Recommendation No. 21:** relating to the examination and production of management accounts by Council Revenue Collectors:

“The Audit Bench recommends the drafting and publication of an instruction relating to the production of management accounts by Council Revenue Collectors”.

⇒ **Recommendation No. 22:** relating to the computerization of the accounting of Council Revenue Collectors.

“The Audit Bench recommends the short-term computerization of the accounting Council Revenue Collectors”.

4.3 NEW RECOMMENDATIONS

To ensure the increase in the Audit Bench’s capacity and ameliorate the keeping of accounts, new recommendations have been formulated for the 2007 accounts. They are:

4.3.1 RECOMMENDATIONS ON THE ACTIVITIES OF THE BENCH

The Audit Bench recommends:

1. Putting at the disposal of the Ministry in charge of finance, support staff who are assistant verifiers (category “A” and “B” staff of the public service);
2. Continuing building the operational capacities of the Audit Bench to enable it, like other supreme audit bodies of State finances, to widen its field of competence through the exercise of management control.

4.3.2 RECOMMENDATIONS RELATING TO THE RESPECT OF INSTRUMENTS IN FORCE

- **On Decree No. 87/1141 of 20 August 1987 to fix the remuneration and other benefits for personnel of State corporations, public establishments and semi-public corporations.**
3. *The Audit Bench recommends that the provisions of articles 4,5,6,12 and 15 of the decree mentioned above which fix in a limitative manner the remuneration and allowances paid to officials (art 4), the benefits*

allocated to managers (art 6), mission allowances in case of temporary travel (art 8 and 9) and the benefits and bonuses granted personnel (art 15);

- **On Law No. 99/016 of 22 December 1999 on the General Rules and Regulations of public administrative establishments, public and semi-public enterprises.**

4. The Audit Bench recommends that an enabling instrument be signed on the law cited above with regard to the remuneration of officials of these structures.
5. The Bench recommends the strict observation of the provisions contained in this decree concerning incompatibilities (art 21), the duration of the mandate of board members (art 66 and 68) and bonuses paid during board of directors' meetings (art 65).

4.3.2 RECOMMENDATIONS ON THE KEEPING OF ACCOUNTS

4.3.3.1 Accounts of principal Treasury accountants

A number of recommendations have been made concerning the accounts of principal Treasury accountants. These recommendations intend to lighten the balances of accounts on the one hand and better apprehend the accounts of the State on the other hand. The Audit Bench therefore recommends:

- 6 *The automatic admission as non-value of amounts that appear on the various balances of accounts as mechanised taxes which have been on the roles for more than 25 years:*
- 7 *The auditing by order of the Minister in charge of finance of debits and other deficits featuring in balances of accounts;*
- 8 *The gradual reduction of all the amounts made up of unpaid cheques rejected during clearance, either by carrying out effective collection or by transforming them into a deficit to be imputed on the accountant who endorsed them;*
- 9 *The preparation of a general account of the finance administration by the Ministry of Finance. This document which will bring together the budgetary operations of all the principal Treasury accountants and will ensure the evaluation of the state of execution of the State budget and make it easy to decide on the draft settlement law.*

10 The list of the various special treasury accounts authorised during the financial year indicating the modalities of their functioning be sent to it at the end of the financial year by the Ministry of Finance.

11 To engage reflection with the Ministry in charge of finance aimed at significantly reducing the number of constituent documents of a bundle of supporting documents in order to facilitate and make more efficient the control by a public accountant without jeopardising the principles of regularity and sincerity of public expenditure.

4.3.3.2 Accounts of accounting officers and council Revenue Collectors

After the recent institution of the nomenclatures of their accounts and sectoral accounting standard and considering the clear difficulties which these accountants will face in the preparation of their management accounts, the Bench recommends:

12 Accelerated training of accounting officers and Council Revenue Collectors in the new management imposed by the new instruments which govern the keeping of their respective accounting.

13 The preparation for examination of management accounts of this category of certified public accountants by structures provided to this effect.

4.3.4 RECOMMENDATION RELATING TO THE DISCIPLINE OF ACCOUNTANTS

After realizing that a majority of certified public accountants did not constitute securities and sureties provided for by the instruments in force:

14 The Audit Bench recommends that the ministry in charge of finance take all measures so that accountants in service take the oath and deposit a security within a reasonable deadline.

CONCLUSION

At the end of the 2007 financial year, the work of the Audit Bench culminates in a certain number of facts which help in improving its programming and refine its work methods. Thus:

- The option of complete control of the accounts of 2006 which helped in recording the categories of irregularities now makes it possible to effect, as the case may be, a selective control of accounts, the objective of which is a targeted verification of justificatory documents of income and expenditure;
- The rate of production of accounts which is in net regression according to Divisions, henceforth calls for resort to the procedure of fines for unproduced accounts or those produced late, after a phase of information and awareness of public accountants to the production of accounts to the Bench;
- By dint of the ambiguity of the provisions of the law of 21 April 2003, a general revision of this instrument is recommended inasmuch as the control of the accounts of Division Four notably requires putting in place special procedures.

Generally, the extension of the missions of the Audit Bench may be envisaged as suggested by the Procureur General of the Supreme Court during the audience of the solemn opening of the said Court on 28 February 2008. In effect, the various international bodies for the control of public finances (INTOSAI, AFROSAI) only admit as members control institutions of countries whose scope of competence concerns both accounts control *stricto sensu* and the management by authorizing officers. Moreover, article 76 of the convention governing the Central African Economic and Monetary Union makes it an obligation for

member States to set up accounts courts invested with the missions mentioned above.

It should be noted that all financial jurisdictions of CEMAC are supreme State Audit institutions of public finance while the Audit Bench of the Supreme Court is the only one not invested with this prerogative.

At the end of this Annual Report, the accounts ready for examination for the 2004 and 2005 should be controlled before the end of the 2009 financial year, in order to have a clear idea of the state of accounts according to structure.

The first final rulings should be rendered during the 2008 financial year and this will help to verify, during subsequent controls, if the principles have been retained.

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**CORRESPONDENCE OF THE PRESIDENT OF THE AUDIT BENCH
ADDRESSED TO THE MINISTER IN CHARGE OF FINANCE
RELATING TO THE REPORT ON STATE ACCOUNTS**

REPUBLIQUE DU CAMEROUN
PAIX-TRAVAIL-PATRIE
COUR SUPREME
CHAMBRE DES COMPTES
☎ : 22.22.30.29



REPUBLIC OF CAMEROON
PEACE-WORK-FATHERLAND
SUPREME COURT
AUDIT BENCH
☎ : 22.22.30.29



Yaounde, 22 May 2008

No. 726/CDC/CSC

THE PRESIDENT OF THE AUDIT BENCH
To the Minister in charge of Finance

YAOUNDE

Subject: Report on State Accounts

Sir,

I have the honour to bring to your knowledge that in accordance with the terms of section 39(d) of law No. 2006/016 of 29 December 2006 to lay down the organisation and functioning of the Supreme Court "*The Audit Bench shall be competent to prepare and publish the Annual Report of State accounts addressed to the President of the Republic*".

The first report on State accounts has just been prepared. The Audit Bench had discovered some facts during the verification of the 2004 financial year. Thus, it reveals several irregularities committed by public accountants in relation to the rules set by Ordinance No. 62/OF/4 of 7 February 1962, to the provisions of Law No. 2003/005 of 21 April 2003 and to the principles laid down by the instruction of the Minister of the Economy and Finance of 21 October 2005 on management accounts.

In a bid to improve accounting discipline, these irregularities led the Bench to formulate 13 recommendations. Lastly, it concludes by giving its opinion on the accounts of the 2004 financial year.

While sending you an extract of the said report as it is the tradition in financial jurisdictions before its being forwarded to its illustrious addressee, I have the honour to pray you to formulate observations you deem useful on the points raised.

If it so pleases you, it would be highly wished that these observations reach the Audit Bench of the Supreme Court not later than 20 June 2008.

Yours sincerely

Signed: Abraham TCHUENTE

**WRITTEN REPOSE BY THE MINISTER IN CHARGE OF FINANCE
TO THE PRESIDENT OF THE AUDIT BENCH**

REPUBLIC OF CAMEROON

Peace -Work - Fatherland

MINISTRY OF FINANCE

MINISTER'S OFFICE

Yaounde, 27 June 2008.

The Minister of Finance

**TO
THE PRESIDENT OF THE AUDIT BENCH
OF THE SUPREME COURT**

Ref.: V/L No.726/CDC/CSC of 25/05/2008

Subject: Report on accounts of the 2004 financial year

Mr President,

In your letter whose reference and subject appear above, you forwarded for reaction the facts noticed by the Audit Bench during the examination of the accounts of the 2004 financial year.

In reply, I wish to inform you that the facts and recommendations contained in this document were the subject of thorough reading by all the structures of my ministry involved in the rendering of public accounts.

In summary, this report brings out four principal points of concern, namely: lack of coherence between the trial balance and the settlement law; the non respect of the procedure of preparing accounts for examination with regard to form and substance; the importance in volume of unrecoverable claims regarding old mechanised tax assessments and collection notices and lastly the increasing proportions of exceptional expenditure in terms of cash and disbursements not accompanied by operating accounts.

I have taken note of the various facts established by the accounts judges. As for the resulting analysis and recommendations, they are enriching in the sense that they constitute proposals made by the jurisdiction in view of improving the whole system. Obviously, some of them have to do with problems raised in 2004 but which have since been resolved. On the other hand, others are current and are based on criticisms formulated against our system and which have been raised in other frameworks.

In all, the examination of the 2004 accounts is a trial run and totally satisfactory results could not be expected during the year of take-off of activities of our financial jurisdiction whose courage I must hail in starting the process.

It takes most benches fifteen to twenty years to do the work you have accomplished this far.

I am happy with the orientation chosen by the accounts judge to give priority to pedagogy in this initiation phase so as to take account of the lack of experience of the various actors involved in the process. By so doing, the Bench is playing its role of assisting the executive to start a dynamics towards greater regularity in the production of accounts of better quality.

The Ministry of Finance subscribes to this logic of evolution and envisages important measures within the scope of the current reforms to improve the legal, budgetary and accounting environment relating to the keeping of accounts. The collaboration platform which has been instituted between the services of the Treasury and the Audit Bench will ensure a better consideration of the recommendations contained in this report and moreso, the examination with full understanding of questions concerning the implementation of the new financial regimen of the State in relation to the jurisdiction of the Bench.

Yours sincerely,

The seal is circular with a double border. The outer border contains the text 'REPUBLIQUE DU CAMBODGE' at the top and 'ROYAUME DU CAMBODGE' at the bottom. The inner border contains 'LE MINISTRE DES FINANCES' at the top and 'MINISTRY OF FINANCES' at the bottom. In the center is a stylized elephant. To the right of the seal, the text 'Le Ministre des Finances' is printed above a handwritten signature 'Essimi Menye'. Below the signature, the name 'ESSIMI MENYE' is printed in capital letters.

Le Ministre des Finances
Essimi Menye
ESSIMI MENYE

**EXTRACT OF THE CONVENTION GOVERNING THE CENTRAL
AFRICAN ECONOMIC UNION (UEAC)**

CONVENTION GOVERNING THE CENTRAL AFRICAN ECONOMIC UNION (UEAC)

PREAMBLE

The Government of the Republic of CAMEROON
The Government of the CENTRAL AFRICAN REPUBLIC
The Government of the Republic of CONGO
The Government of the Republic of GABON
The Government of the Republic of EQUATORIAL GUINEA
The Government of the Republic of CHAD

- Mindful of the treaty instituting the Central African Economic and Monetary Community;
- Conscious of the advantages which member States draw from their belonging to the same monetary community and the need to supplement it with an Economic Union;
- Conscious of the handicaps resulting from the enclavement and insularity of certain member States and the need to support, in the spirit of solidarity, the efforts of these States aimed at reducing their handicaps in view of harmonious development of the community;
- Affirming the need to favour the economic development of member States through the harmonisation of their legislation, unification of their domestic markets and the institution of common policies in the essential sectors of their economy;
- Affirming their will to conform with the principles of an open, competitive market economy and favouring the optimal allocation of resources;
- Taking into account the advantages obtained within the framework of African regional organisations to which member States belong;

Agree to the following:

- Exercises, under the control of the Council of Ministers, the executive powers of adopted decisions by this body;
- Executes the budget of the Economic Union;
- Ensures the application by member States or their citizens of the provisions of this Convention and the decisions taken by organs on the Economic Union by virtue of this Convention;
- Represents the Economic Union against third parties;

- Draws up a report on the functioning of the Economic Union which it submits, including the opinion of the Council of Ministers to the Community Parliament.

Ensures the publication of the official bulletin of the community.

Article 72: The Executive Secretary shall propose for adoption by the Council of Ministers, the organisation chart of services of the Economic Union. He shall recruit and appoint to different positions within the limits of the budget.

CHAPTER II: CONTROL OF ACTIVITIES OF THE ECONOMIC UNION

Article 73: The jurisdictional and budgetary control of activities under the economic union shall be ensured by the Community's Court of Justice. This Court shall include a Judicial Bench and an Audit Bench.

The Court of Justice of the community shall be governed by a special instrument.

Article 74: The Judicial Bench of the community shall examine disputes linked to the implementation of the Convention governing the Central African Economic Union.

Article 75: The Audit Bench of the Community shall examine the accounts of the Economic Union, according to the modalities laid down by its regulations.

Article 76: In order to ensure the reliability of the budgetary data necessary to the organisation of the multilateral surveillance of budgetary policies, each member state shall take, as need be, the necessary measures so that, not later than one year after the entry into force of this Convention, all the accounts can be controlled according to procedures offering guarantees of the required transparency and independence. Notably, these procedures must help ensure the verification of the reliability of the data featuring in the initial and rectified Finance Law as well as the law of settlement.

The procedures open to this effect, at the choice of each member state, shall be following:

- Resort to control by the Audit Bench of the community;
- Institute a national accounts court which may, where need be, resort to an external audit system. This court shall transmit its observations to the Audit Bench of the Community.

Member states shall keep the Council of Ministers and the Executive Secretariat informed of the measures taken to conform to this obligation without delay. The Executive Secretariat shall verify that the guarantee of efficiency of the procedures chosen is met.

The Council of Ministers shall adopt by qualified majority, upon proposal by the Executive Secretary, the regulations and directives necessary for the implementation of these provisions.

PART V
SPECIAL AND FINAL PROVISIONS

SECTION 1- SPECIAL PROVISIONS

Article 77: In view of promoting the harmonious development of all member States within the framework of the advantages of UDAC and to surmount the handicaps of regional economic and social integration which are enclavement or insularity, member States commit themselves to put in place a development fund.

All members of the Union shall participate in financing the development fund.

The amount, contributions as well as use of the development fund shall be determined by the conference of the Heads of State, upon the proposal of the Council of Ministers.

Article 78: For the application of this Convention, the regime of the legal decisions shall be that provided for by articles 20 and following of the addendum to the CEMAC Treaty.

SECTION 3- FINAL PROVISIONS

Article 50: Any member state may submit to the conference of Heads of State a proposal for the revision of the CEMAC Treaty, of this addendum or conventions of UDEAC and UMAC. Amendments shall be adopted by unanimous decision of member States.

Upon the proposal of the Executive Secretary of the community, the Council of Ministers or the ministerial committee may equally submit drafts for the revision of the Treaty to the Conference of Heads of State.

Amendments shall enter into force after ratification by all member States in conformity with their respective constitutional rules.

Article 51: The CEMAC Treaty may be rejected by any member State. It shall cease to have effect with regard to the said country on the last day of the sixth month following the date of notification to the Conference of Heads of State. This time-limit may, however, be abridged in common accord among the signatory States.

Article 52: This addendum shall be ratified at the initiative of the high contracting parties, in conformity with their respective constitutional rules. The ratification instruments shall be deposited to the Government of the Republic of Chad which shall inform the other States and deliver them certified true copies.

This addendum shall enter into force on the territory of each signatory State from the first day of the month following the deposit of the instrument of ratification of the signatory State which shall fulfil this formality last. However, if the deposit takes place less than fifteen days before the start of the following month, the entry into force of the addendum shall be postponed to the first day of the second month following the date of deposit.

**RECOMMENDATIONS RELATING TO THE FIRST ANNUAL
MEETING OF NATIONAL AND COMMUNITY COURTS AND AUDIT
BENCHES**

**FIRST ANNUAL MEETING OF NATIONAL AND
COMMUNITY COURTS AND AUDIT BENCHES**

RECOMMENDATIONS

The first annual statutory meeting between the Audit Bench of the CEMAC Court of Justice and national and Community Courts and Audit Benches of CEMAC member states:

Considering:

A. AT THE NATIONAL LEVEL:

1. The importance which international bodies henceforth give to the conditionalities of good governance underlain by the existence of independent controls through the presence of a national Audit Court;
2. The place of the institution of control as an Audit Bench within a Supreme Court;
3. The ignorance of most community organic provisions relating to national Audit courts and Audit Benches;
4. The limits in both jurisdictional and non jurisdictional competence of certain Audit Courts and Audit Benches;
5. Inadequate means of allocated services which hamper action and affect the independence of most of the Audit Courts and Audit Benches of our region;
6. Inadequate training, further training and expertise of those in charge of controls;
7. The fixing by law of the number of members in certain Audit Courts and Audit Benches;
8. The absence of a control procedures manual in most control institutions.

B. AT THE COMMUNITY LEVEL

1. Difficulties faced by the Audit Bench of the CEMAC Court of Justice in organising annual meetings;
2. Poor relations and consultation among national control institutions of member States;
3. Limited dissemination of documentation and publications of common interest;
4. The need for permanent consultation in view of reinforcing the harmonisation of control systems.

RECOMMENDS THE FOLLOWING:

AT THE NATIONAL LEVEL:

1. The setting up of veritably independent Accounts Courts within the shortest possible time considering article 76 of the Convention governing the Central African Economic Union;
2. The non fixing by law of the number of members of the Court;
3. The widening the domain of competence;
4. The granting of real management autonomy with the consequent means and services;
5. The development of exchanges between Courts.

AT THE COMMUNITY LEVEL

1. The allocation of the means necessary for the holding of the statutory annual meeting. In this regard, participants propose that henceforth the Court of Justice take charge of the necessary transport fares and the host State the costs of organisation of the meeting on the site;
2. The reinforcement of cooperation and consultation ties among national and Community control institutions;
3. The wide dissemination of documentation and publications of common interest;
4. The promotion of the harmonisation of control systems within the Community.

N'DJAMENA, 24 APRIL 2008

**EXTRACT OF SUBMISSION BY THE PROCUREUR GENERAL OF
THE SUPREME COURT DURING THE SOLEMN OPENING OF THE
SAID COURT, 28 FEBRUARY 2008**

SUPREME COURT OF CAMEROON

AUDIENCE OF 28/02/2008

SOLEMN OPENING OF THE
SUPREME COURT

EXTRACT OF THE SUBMISSION BY THE
PROCUREUR GENERAL OF THE SAID COURT

Your Excellencies, Ladies and Gentlemen,

Provided for by the Constitution of 18 January 1996 and organized by Law No. 2003/005 of 21 April 2003, the Audit Bench of the Supreme Court has five Divisions:

- The Division in charge of State public accounts;
- The Division in charge of accounts of regional and local authorities;
- The Division in charge of Public Administrative Establishments;
- The Division in charge of public and semi-public enterprises;
- The Review Division.

It essentially an independent institution as it establishes its annual programme itself, addresses its Annual Report to the President of the Republic and the President of the National Assembly as well as ensuring its publication in the Official Gazette. Moreover, it enjoys budgetary autonomy.

Consequently, it fulfills all the conditions required by the International Organisation of Supreme Audit Institutions (INTOSAI) for it to be a financial jurisdiction.

This jurisdiction has three main missions:

- Control and ruling on accounts;
- Production and publication of its annual report;
- Issuance of various opinions.

Only its mission of control and ruling on accounts shall be examined in this discourse.

This control and the ruling which follows extend to all sectors of public life: State public accounts; the accounts of its public establishments, those of local authorities and their public establishments, public and semi-public enterprises.

The jurisdiction of the Audit Bench also extends to corporate persons benefitting from obligatory deductions, exploiting a State service or monopoly or benefitting from State support and finally natural or corporate persons invested with a specific mission and benefitting from the proceeds of national or international generosity.

Because, as per the terms of section 41 of the Constitution, the Audit Bench is competent to control and rule on public accounts and those of public and semi-public enterprises, it controls all income and expenditure operations of the State and its subsidiaries.

With regard to income, corruption is generally the source of their reduction, whimsical rebates, undue admission in non value, deliberate absence of diligence in collection etc.

As for expenditure, corruption can be used to explain overbilling, splitting of contracts, fictitious deliveries, absence of justificatory documents, undue or irregular payments or the embezzlement of public funds.

All these shortcomings concerning both the income and expenditure may be discovered by the accounts judge during examination.

Undoubtedly, through the questionnaires of the rapporteur or the injunctions of the deliberation body, these practices may be qualified as acts of corruption, depending on their motivation.

Consequently, the Audit Bench is called upon, by uncovering these acts, to sanction them accordingly or to refer them to the Procureur General of the high jurisdiction so that a complaint may be lodged on behalf of the State.

Moreover, during de facto accounting which consists in manipulating State funds, the Audit Bench, without having the quality to do so, may also detect cases of corruption which are translated by embezzlement of public funds.

On this occasion, the Audit Bench may pronounce fines against any de facto accountant and give him an injunction to pay the amount of the misappropriation, without prejudice to penal sanctions that may be pronounced by the competent criminal courts. It is consequently essential for accountants, for all persons handling funds qualified as public and those handling these funds without the having the quality, to know that the Audit Bench of the Supreme Court is competent, during controls and ruling on accounts to detect, sanction or cause sanction to be taken against acts that led to the misappropriation of public funds.

All accountants of the State, regional and local authorities, public establishments, public and semi-public enterprises are bound to submit their accounts for control and ruling by the Audit Bench under pain of being condemned to pay a fine.

Equally, in case of condemnation by the Audit Bench either to pay a fine or debit balances, the Ministry of Finance is bound to execute the sentence pronounced against the condemned accountant. Sentences pronounced by the Audit Bench and not executed within six months shall be the subject of a report to the President of the Republic.

That is to say no accountant is likely to escape both the control and ruling on the accounts he keeps and the possible condemnation in case of misappropriation.

Equally, in case of the misappropriation of public funds constituting an infringement of the penal code, the denunciation of such infraction by the legal department of the Supreme Court in the Ministry of Justice is equivalent to a complaint on behalf of the State.

“Society has the right to ask for account from any public employee of his administration”, solemnly proclaims article 15 of the Declaration of Human Rights and of the Citizen of 1789.

Also, account must be given by public employees to the Audit Bench which has, during two years of functioning playing its pedagogic role, addressed firm injunctions and injunctions for the future to accountants and carried out training with regard to the production of accounts ready for examination to enable all accountants render account under the same conditions of form.

Several questionnaires have up till date been addressed to accountants. If up now the Audit Bench has prioritized the training of public accountants, during 2008 it will consider more control and ruling by imposing fines and by pronouncing debits to repair the prejudice

suffered by the State or its subsidiaries, thus contributing in the fight carried out by other State institutions to eradicate corruption in our country.

But, Your Excellencies, Ladies and Gentlemen, notwithstanding the scope of its powers and missions, the fact still remains that the action of the Audit Bench in the fight against corruption is limited.

The essential limit resides in the fact that its control is only on accounts, leaving out management, making the ancillary missions of its action untouched.

In effect, the Audit Bench exercises its jurisdictional control only after the performance of the income and expenditure operations, since only accounts are submitted to it after the operations have taken place.

Thus, when control takes place, fraudulent operations have ended sometimes after several years.

Moreover, the Audit Bench being competent to rule only on accounts of public accountants, the accounts judge in reality assesses only the regularity of accounts presented to him. He rules on the regularity of the justificatory documents and their transcription in the accounts.

An account can, however be balanced but mask serious anomalies which can be discovered if management control is carried out.

Contrary to most financial jurisdictions, the Audit Bench of the Supreme Court is not empowered to examine management operations even though it is the only independent control institution because it fulfills the independence criteria laid down by the International Organisation of Supreme Audit Institutions (INTOSAI), that is the programming of its actions, doing self referral and the publication of its annual report without prior authorisation.

This financial jurisdiction cannot carry out an evaluation which will help in understanding the efficiency, efficacy and economy of the structure controlled.

It cannot equally formulate observations on the procedures followed, preliminary studies, follow-up of works, dysfunctions and justification of expenditure.

As Roland Morin, Master of the Supreme Court in the *Cour des Comptes de France* states “*Except it has to remain stuck in outdated archetypes, the Court cannot remain absent in the important debate on the evaluation of public policies. But it must be present with its arms and specificity which are neither vague speech nor controversial generalities but indispensable accounting information and the description of costs and mechanisms*”.

It follows from the preceding that the reinforcement of the operational capacities of the financial jurisdiction is a priority for any modern state in need of transparency in the management of public finance and therefore enable the Bench fully play its role of securing public patrimony.

While calling on Masters of the Supreme Court of the Audit Bench and judges of the Legal Department of the Supreme Court to continue carrying the careful jurisdictional control of the accounts in order to effectively contribute in the fight against corruption, my wish is that

the reflections on the evolution of the financial jurisdiction be taken into account in order that it can efficiently play its role of an institution for the fight against corruption and the improvement of governance.

At the dawn of a new judicial year, it was necessary for me to issue this submission to be considered by all so that justice in our country adapts to the evolution of the modern world and has a legal arsenal which permits it to carry out its missions.

Benefitting from these suggestions, I have the honour to request the Chief Justice of the Supreme Court:

- To declare closed the 2007 judicial year and opened the 2008 judicial year;
- To formally acknowledge my submission.

And let it be known that a statement shall be recorded to be conserved in the minutes of the registry of the Supre